

CHAPTER 17 Subdivisions

ARTICLE I - Subdivision Code

ARTICLE I Subdivision Code

[Sec. 17-1. Adoption.](#)

[Sec. 17-2. Amendments.](#)

[Sec. 17-3. Application.](#)

[Sec. 17-4. Copy on file.](#)

[Sec. 17-5. Violations and penalty - Void permits.](#)

[Secs. 17-6—17-20. Reserved.](#)

Sec. 17-1. Adoption.

There is hereby adopted and incorporated herein by reference the 1996 Buena Vista Subdivision Code, also known as the Subdivision Code, promulgated and published by the Town of Buena Vista, P.O. Box 2002, Buena Vista, Colorado 81211. The Subdivision Code establishes comprehensive regulations and standards governing the subdivision and development of real property and is intended to protect and enhance the public health, safety and welfare.

(Ord. 12, 1996 §1; Ord. 3-1998, §1)

Sec. 17-2. Amendments.

Amendments to the Subdivision Code shall be adopted and become effective in the same manner as ordinances.

(Ord. 12, 1996 §1; Ord. 3-1998, §1; Ord. 4-2008 §2)

Sec. 17-3. Application.

This Article and the Subdivision Code shall apply to real property and development both within and outside the corporate limits of the Town to the extent permitted by law.

(Ord. 12, 1996 §1; Ord. 3-1998, §1)

Sec. 17-4. Copy on file.

At least one (1) copy of the 1996 Buena Vista Subdivision Code shall be maintained on file in the office of the Town Clerk and may be inspected by any interested person between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. Copies of the Subdivision Code shall be available for sale to the public through the office of the Town Clerk at a moderate price.

(Ord. 12, 1996 §1; Ord. 3-1998, §1)

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-5. Violations and penalty - Void permits.

- (a) It shall be unlawful for any person, including an owner, occupant, builder or agent, to divide, subdivide, convey, transfer, develop or use, or to attempt or negotiate to divide, subdivide, convey, transfer, develop or use, any real property in violation of the provisions of this Article or the Subdivision Code. A violation of any of the provisions of this Article or the Subdivision Code shall constitute a misdemeanor, punishable upon conviction for each separate offense by a fine or imprisonment, or both, as set forth in Article IV of Chapter 1 of this Code.
- (b) No building permit, water system connection permit, access permit or other permit shall be issued for any building, development or structure situated on any lot or parcel of land divided, subdivided, transferred, sold or conveyed in violation of this Article and/or the Subdivision Code.
- (c) All persons are presumed to know the terms and requirements of this Article and the Subdivision Code and the extent of the legal authority of the Town and its employees, boards and commissions to issue development approvals or permits. Any permit or approval issued in error or otherwise not in conformity with the requirements of this Article or the Subdivision Code shall be void. Similarly, any permit or approval issued in reliance upon, or as a result of, a materially false statement or representation made in the process of obtaining the permit or development approval shall, likewise, be void. Any person having received a void or voidable permit or approval shall not be relieved from having to comply with all applicable terms and conditions of the Subdivision Code and this Article, and the Town shall not be stopped from fully enforcing the same.

(Ord. 3-1998, §1)

Secs. 17-6—17-20. Reserved.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

2010 DEVELOPMENT CODE
(Amended)

(Incorporated—by reference, into
Chapter 17 of the Buena Vista Municipal Code)

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Town of Buena Vista, Colorado

Revised 2-21-98 and 12-14-99, 4-12-02, 4-01-05, 1-31-06 and 3-08

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Table Of Contents

<u>Article</u>	<u>Title</u>	<u>Page</u>
<i>ARTICLE I</i>	<i>GENERAL PROVISIONS.....</i>	<i>1</i>
Sec. 17-1	Title.	1
Sec. 17-2	Policy.	1
Sec. 17-3	Purposes.....	1
Sec. 17-4	Legal Authority.	3
Sec. 17-5	Authority of Planning Commission.....	3
Sec. 17-6	Authority of Board of Trustees.....	3
Sec. 17-7	Jurisdiction.....	3
Sec. 17-8	Effective Date.	4
Sec. 17-9	Interpretation, Conflict, and Separability.	4
Sec. 17-10	Saving Provision.....	5
Sec. 17-11	Repeal of Prior Regulations.	5
Sec. 17-12	Amendments.....	5
Sec. 17-13	Public Purpose.....	5
Sec. 17-14	Variances, Exceptions, and Waivers of Conditions.	5
Sec. 17-15	Computation of Time.....	6
Sec. 17-16	Enforcement, Violations, and Penalties.	7
Sec. 17-17	Inapplicability to Town.	8
Sec. 17-18	to 17-20 (Reserved)	8
<i>ARTICLE II</i>	<i>DEFINITIONS</i>	<i>9</i>
Sec. 17-21	Usage.	9
Sec. 17-22	Words and Terms Defined.	9
Sec. 17-23	Acts by Agent or Authorized Representative.	18
Sec. 17-24	to 17-25 (Reserved)	18
<i>ARTICLE III</i>	<i>DEVELOPMENT APPLICATION PROCEDURE AND APPROVAL PROCESS.....</i>	<i>19</i>
Sec. 17-26	General Procedure.	19

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-27	Exemption Procedures.	23
Sec. 17-28	Minor Development	24
Sec. 17-29	Intermediate Development.	28
Sec. 17-30	Major Development.	32
Sec. 17-31	to 17-35 (Reserved)	41
ARTICLE IV	DEVELOPMENT PLAN STANDARDS	42
Sec. 17-36	Development Plans - Contents	42
Sec. 17-37	Construction Plan Requirements	50
Sec. 17-38	Design Report Requirements.	52
ARTICLE V	VESTED PROPERTY RIGHTS AND DEVELOPMENT AGREEMENTS. 61	
Sec. 17-41	Vested Property Rights.....	61
Sec. 17-42	Development Agreements.....	65
Sec. 17-43	to 17-45 (Reserved)	66
ARTICLE VI	ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS	67
Sec. 17-46	Improvements and Development Improvements Agreement.	67
Sec. 17-47	Inspection of Improvements.....	70
Sec. 17-48	(Reserved)	71
Sec. 17-49	Maintenance of Improvements.	71
Sec. 17-50	Deferral of Waiver of Requirement Improvements.....	72
Sec. 17-51	Issuance of Certificates of Occupancy.	72
Sec. 17-52	Consumer Protection Legislation and Conflicts of Interest Statutes.	72
Sec. 17-53	to 17-55 (Reserved)	73
ARTICLE VII	REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS, AND DESIGN.....	74
Sec. 17-56	General Improvements.....	74
Sec. 17-57	Design Standards.	76
Sec. 17-58	Standard Specifications.....	86
Sec. 17-59	Mobile Home Subdivisions.....	87
Sec. 17-60	(Reserved).....	87
Sec. 17-61	Manufactured Housing.....	87
Sec. 17-62	to 17-65 (Reserved)	87

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

<i>ARTICLE VIII</i>	<i>LAND READJUSTMENT</i>	88
Sec. 17-66	Resubdivision of Land.	88
Sec. 17-67	Plat Vacation.	89
Sec. 17-68	to 17-69 (Reserved)	91
<i>ARTICLE IX</i>	<i>FEES</i>	92
Sec. 17-70	Fees -- general.....	92
Sec. 17-71	Deposits -- development/ PUD review and processing fees.	92
Sec. 17-72	Deposits--development infrastructure/improvements.	93
Sec. 17-73	Fees--Administration.	93
Sec. 17-74	to 17-75 (Reserved)	97

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

CHAPTER 17

DEVELOPMENTS

ARTICLE I GENERAL PROVISIONS

Sec. 17-1 Title.

These regulations shall officially be known, cited, and referred to as the 2010 Development Code, as amended, of the Town of Buena Vista, Colorado (hereinafter "these regulations").

Sec. 17-2 Policy.

- (a) It is declared to be the policy of the municipality to consider the development of land as subject to the control of the municipality pursuant to the Comprehensive Plan of the municipality for the orderly, planned, efficient, and economical development of the municipality.
- (b) Land to be developed shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be developed until adequate public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreational facilities, transportation facilities, and improvements.
- (c) The existing and proposed public improvements shall conform to and be properly related to the proposals shown on the Comprehensive Plan, and the capital budget and program of the municipality, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the Town's building and related codes, Zoning Ordinance (Chapter 16 of the Buena Vista Municipal Code), the Comprehensive Plan, and the capital budget and program of the municipality.
- (d) Land that has been approved for development or subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of regulation(s) identified in Section 1.3

Sec. 17-3 Purposes.

These regulations are adopted for the following purposes:

- (a) To protect and provide for the public health, safety, and general welfare of the municipality.
- (b) To guide the future growth and development of the municipality in accordance with the Comprehensive Plan.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- (c) To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population.
- (d) To protect the character and the social and economic stability of all parts of the municipality and to encourage the orderly and beneficial development of the community through appropriate growth management techniques; to assure the timing and sequencing of development; to promote in-fill development in existing neighborhoods and non-residential areas with adequate public facilities; to assure proper urban form and open space separation of urban areas; and to protect environmentally critical areas and areas premature for urban development.
- (e) To protect and conserve the value of land throughout the municipality and the value of buildings and improvements upon the land; and to minimize the conflicts among the uses and buildings.
- (f) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.
- (g) To provide the most beneficial relationship between the uses of lands and buildings and the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings; and to provide for the proper location and width of streets and building lines.
- (h) To establish reasonable standards of design and procedures for subdivisions and development in order to further the orderly layout and use of land; and to ensure proper legal descriptions and monumenting of subdivided land.
- (i) To ensure that public facilities and services are available concurrently with development which will have a sufficient capacity to serve the proposed development; and to further ensure that the community will be required to bear no more than its fair share of the cost of providing the necessary facilities and services by requiring the development to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development.
- (j) To prevent the pollution of air, rivers, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land.
- (k) To preserve the natural beauty and topography of the municipality and to ensure

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

appropriate development with regard to these natural features.

- (l) To provide for open spaces through the most efficient design and layout of the land.
- (m) To ensure that land is subdivided only when subdivision is necessary to provide for uses of land for which market demand exists and which are in the public interest.
- (n) To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, and scattered and low-grade subdivision.

Sec. 17-4 Legal Authority.

These regulations are adopted by the Board of Trustees of the Town of Buena Vista pursuant to the authority granted by Part 2 of Article 23 of Title 31, C.R.S. Pursuant to 31-23-227, C.R.S., the Board of Trustees, and not the Planning Commission of the Town of Buena Vista (hereinafter the "Planning Commission"), has promulgated these regulations; and, the Board of Trustees has assumed and shall exercise those duties and powers provided in these regulations.

Sec. 17-5 Authority of Planning Commission

The Planning Commission is vested with the authority to review, and to recommend to the Board of Trustees the approval, conditional approval or disapproval of any application related to the subdivision or development of land submitted to it for its review pursuant to these regulations. The Planning Commission may additionally review and recommend approval, conditional approval or disapproval of any request for a variance from these regulations submitted pursuant to the provisions of Section 17-14.

Sec. 17-6 Authority of Board of Trustees

The Board of Trustees is vested with final authority to review and to approve, conditionally approve or disapprove any application related to the subdivision or development of land submitted to it for its approval pursuant to these regulations. The Board of Trustees may additionally review and either approve, conditionally approve or disapprove any request for a variance from these regulations submitted pursuant to the provisions of Section 17-14.

Sec. 17-7 Jurisdiction.

- (a) These regulations apply to all development or subdivision of land located within the corporate limits of the municipality or outside the corporate limits as provided by 31-23-213, C.R.S.
- (b) No land may be subdivided through the use of any legal description other than with reference to a plat approved by the Board of Trustees and recorded with the Chaffee County Clerk and Recorder in accordance with these regulations.
- (c) No land described in this Section 17-7 shall be subdivided, sold, conveyed, or transferred

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

until both of the following conditions has occurred in accordance with these regulations:

1. The applicant has obtained approval of the development of such property in accordance with the requirements of these regulations; and
 2. The applicant has filed the approved plat with the Clerk and Recorder of Chaffee County.
- (d) No building permit or certificate of occupancy shall be issued for any parcel or lot which has been created in violation of the terms and/or regulations of this code. Likewise, no excavation of land, earthmoving or earthwork, on construction of any public or private improvement, shall be allowed or commenced on any lot or parcel absent town approval of final construction plans and full compliance with the terms and regulations of this code.

Sec. 17-8 Effective Date.

In order that land may be developed in accordance with the purposes and policies set forth in this Article I, these development regulations are hereby adopted and made effective as of September 5, 2010.

Sec. 17-9 Interpretation, Conflict, and Separability.

- (a) Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.
1. Public Provisions. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulations, statute, or other provision of law, except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.
 2. Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction; provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or standards that are higher than the requirements of these regulations, or the determination of the Board of Trustees in approving a development or in enforcing these regulations, and the private provisions are not inconsistent with these regulations or the determinations made under these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under these regulations.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- (b) Separability. If any part or provision of these regulations or the application of these regulations to any person or circumstance is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment was rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of these regulations to other persons or circumstances. The Board of Trustees hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

Sec. 17-10 Saving Provision.

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision or development regulations of the Town, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the municipality under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any right obtained by any person, firm, or corporation by lawful action of the municipality, except as shall be expressly provided for in these regulations.

Sec. 17-11 Repeal of Prior Regulations.

Upon the adoption of these regulations according to law, the 1996 Subdivision Code Ordinance hereafter named the 2010 Development Code of the Town of Buena Vista codified as Chapter 17 of the Buena Vista Municipal Code, as amended, is hereby repealed and reenacted as set forth in these regulations.

Sec. 17-12 Amendments.

For the purpose of protecting the public health, safety, and general welfare, the Board of Trustees may amend these regulations from time to time in the manner provided by law.

Sec. 17-13 Public Purpose.

The regulation of the development of land and the attachment of reasonable conditions to land development is an exercise of valid police power delegated by the state to this municipality. The developer has the duty of compliance with reasonable conditions laid down by the Board of Trustees for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the municipality and to the health, safety, and general welfare of the future lot owners in the development and of the community at large.

Sec. 17-14 Variances, Exceptions, and Waivers of Conditions.

- (a) General. Where the Board of Trustees finds that the extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances, exceptions, and waivers of conditions to these regulations so that substantial justice may be done and the public interest secured; provided that the variance,

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

exception, or waiver of condition shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Board of Trustees shall not approve variances, exceptions, and waivers of conditions unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance, exception, or waiver of condition will not be detrimental to the public safety, health, or welfare or injurious to the other property;
 2. The condition upon which the request is based is unique to the property for which the relief is sought and is not applicable generally to other property;
 3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; and
 4. The relief sought will not in any manner vary the provisions of the Zoning Ordinance (Chapter 16 of the Buena Vista Municipal Code) or the Comprehensive Plan, except that those documents may be amended in the manner prescribed by law.
- (b) Conditions. In approving variances, exceptions, or waivers of conditions, the Board of Trustees may require such conditions as will, in its judgment, substantially secure the purposes described in Section 17-3.
- (c) Procedures. A request for a variance, exception, or waiver of condition shall be submitted in writing by the applicant. Such request shall be submitted at the time of filing the development application. The request shall state fully the grounds for the variance and all of the facts relied upon by the petitioner.

Sec. 17-15 Computation of Time.

In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded. As used in this Section the term "legal holiday" includes January 1, observed as New Year's Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as President's Day; the last Monday in May, observed as Memorial Day; July 4, observed as Independence Day; the first Monday in September, observed as Labor Day; the second Monday in October, observed as Columbus Day; November 11, observed as Veteran's Day; the fourth Thursday in November, observed as Thanksgiving Day; December 25, observed as Christmas day, and any other day designated as a legal holiday by the Town.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-16 Enforcement, Violations, and Penalties.

(a) General

1. It shall be the duty of the Development Coordinator to enforce these requirements and to bring to the attention of the Town Attorney or the Town Attorney's designated representative any violation of these regulations.
2. It shall be unlawful for any person to erect, construct, reconstruct, use or alter any building or structure or to excavate any public or private street, road or access, or install any utility service or line, serving or intended to serve any lot, parcel or land that has not received final approval as provided for in this code.
3. It shall be unlawful for any person to transfer, sell or convey, or to negotiate to transfer, sell or convey, any property, or portion thereof, for which subdivision approval is required under these regulations before a plat of the subdivision has been approved by the Board of Trustees in accordance with the provisions of the regulations and filed with the Clerk and Recorder of Chaffee County.
4. The subdivision of any lot or any parcel of land by the use of metes and bounds description for the purpose of sale, transfer, conveyance or development is prohibited.
5. No building permit shall be issued for the construction of any building or structure located on a lot or parcel subdivided, transferred, sold or conveyed in violation of the provisions of these regulations; nor shall the municipality have any obligation to issue a certificate of occupancy for or to extend or provide utility services to any lot or parcel created in violation of these regulations.

(b) Violations and Penalties. Any person who violates any of these regulations shall, upon conviction, be punished as provided in Article IV of Chapter 1 of the Buena Vista Municipal Code.

(c) Civil Enforcement. Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of these regulations; to prevent unlawful construction or use of property; to recover damages; to restrain, correct, or abate a violation; and to prevent illegal occupancy of a building, structure or premises. These remedies shall be in addition to the penalties described above.

(d) Plat Enforcement. The Town shall have the authority to bring an action in a court of competent jurisdiction for injunctive relief to enforce any plat restriction, plat note, plat map, or similar instrument, and for damages arising out of failure to adhere to any such plat restriction, plat note, plat map or similar instrument.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-17 Inapplicability to Town.

Notwithstanding anything contained in these regulations to the contrary, the provisions of these regulations shall not apply to the sale, transfer or conveyance of any land owned by the Town within the area commonly known as the "Industrial Park", or to the division of any real property owned by the Town into less than three (3) new parcels. Such property may be sold, transferred and conveyed by the Town by such means and in such manner as it shall determine without compliance being required with the provisions of these regulations. The intent of this Section is to allow the Town to engage in the normal business of the Town, but not to give the Town the license to engage in real estate development or sales.

Sec. 17-18 to 17-20 (Reserved)

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

ARTICLE II DEFINITIONS

Sec. 17-21 Usage.

(a) For the purpose of these regulations, certain numbers, abbreviations, terms, and words shall be used, interpreted, and defined as set forth in this Article II.

(b) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular. Wherever applicable, the pronouns in these regulations designating the masculine or neutral shall equally apply to the feminine, neutral and masculine genders

Sec. 17-22 Words and Terms Defined.

As used in these regulations the following words shall have the following meanings:

Adequate Public Facilities. Facilities determined to be capable of supporting and servicing the physical area and designed intensity of the proposed development as determined by the Board of Trustees based upon specific levels of service.

Alley. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Arterial. Streets with anticipated average daily traffic exceeding two thousand (2,000) cars per day.

Applicant. The owner of land proposed to be developed or its representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

Block. A tract of land bounded by streets, or by a combination of streets and alleys, public parks, cemeteries, railroad rights-of-way, or boundary lines of municipalities.

Board or Board of Trustees. The Board of Trustees of the Town of Buena Vista, Colorado.

Bond. Any form of a surety bond in an amount and form satisfactory to the Board of Trustees. All bonds shall be approved by the Board of Trustees whenever a bond is required by these regulations.

Building. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Certify. Whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the Town by administrative rule, practice or established procedure may require that such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.

Certificate of Occupancy (C.O.) a document issued by Chaffee County certifying a building's compliance with applicable building codes and other laws, and indicating the building to be in a condition suitable for occupancy.

Collector. Collector streets generally connect to arterials or other collectors, and residential driveways are normally not found on collectors.

Colorado Open Meetings Law. The provisions of Part 4 of Article 6 of Title 24, C.R.S., as amended from time to time, or any successor statute.

Common Ownership. Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Concurrency. Requirement that development applications demonstrate the adequate public facilities be available at prescribed levels of service concurrent with the impact or occupancy of development units.

Condominium. A common interest community defined by Section 38-33.3-103(8), C.R.S, in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership by the owners of the separate ownership portions.

Condominium Unit. An individual portion of a condominium designated for separate ownership or occupancy, the boundaries of which are described in or determined from a recorded condominium plat or map; including a defined individual airspace together with an interest in appurtenant physical elements and/or land.

Condominiumization. The conversion of a building or lot, or other parcel of land, either in whole or in part, to a condominium common interest community.

Construction Plans. The maps or drawings accompanying a development plan and showing the specific location and design of improvements to be installed in the development in accordance with the requirements of the Planning Commission and Board of Trustees as a condition of the approval of the development plan.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Contiguous. Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

Cooperative. An entire project which is under the common ownership of a Board of Directors with units leased and stock sold to individual cooperators.

Common Interest Community. A real estate development as defined in Section 38-33.3-102(8), C.R.S., or any successor statute.

Comprehensive Plan. The comprehensive plan for development of the Town prepared and adopted by the Planning Commission and Board of Trustees, pursuant to Part 2 of Article 23 of Title 31, C.R.S., and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

C.R.S. The Colorado Revised Statutes, as amended from time to time.

Cul-de-Sac. A local street with only one outlet that terminates in a paved vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Design Criteria. Standards that set forth specific improvement requirements.

Developer. The owner of land proposed to be developed or its representative who is responsible for any undertaking that requires review and/or approval under these regulations.

Development Agreement. A written contract between a developer and the Town memorializing terms and conditions associated with the approval of a subdivision or other development project and which may specify required improvements and vest property rights. Applicable to intermediate and major developments.

Development Coordinator. The person appointed by the Board of Trustees to administer these regulations and to assist administratively the Board of Trustees and the Planning Commission. If no such officer is appointed, the Town Administrator shall serve as the Development Coordinator.

Development Agent. Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, conveying, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a development, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

Development Improvements Agreement. A contract entered into by a developer with and for the benefit of the town and under which the developer guarantees to construct and/or install, and complete, all improvements required within a development in accordance with a specified schedule.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Development, Major. See Major Development.

Development, Minor. See Minor Development.

Development Plans. The final maps or drawings, described in these regulations, on which the applicant's plan of development is presented to the Planning Commission and Board of Trustees for approval and which, if approved, shall be submitted to the Chaffee County Clerk and Recorder for recordation. If the property is to be subdivided, a development plan shall include a subdivision plat.

Disturbance. Land that is cleared, grubbed, and/or graded for construction purposes, not including the addition of vegetated areas.

Easement. Authorization by a property owner for another to use the owner's property for a specified purpose.

Escrow. A deposit of cash with the Town or escrow agent to secure the promise to perform some act.

Final Acceptance. Written letter from the Public Works Department accepting infrastructure after warranty period has expired.

Final Plan. The plat of a subdivision, or the construction plans for a development to be recorded after approval by the Board of Trustees and any accompanying material as described in these regulations.

Fixture height or mountain height. The vertical distance measured from the ground directly below the centerline of the fixture to the lowest part of the light source.

Foot-candles. A unit of surface illumination that is equal to one lumen per square foot as measured by a properly calibrated digital light meter. For purposes of these regulations, foot-candles shall be measured at a height of three (3) feet above finished grade directly under the illumination source.

Full cut-off fixture. A fixture that emits zero, or near zero, light at an angle of 90 degrees or more above vertical, and which limits to 10% of the total lumens the light fixture can emit above the vertical angle of 80 degrees from the vertical. This applies to all lateral angles around the fixture.

Fully shielded. A light fixture equipped with internal and/or external shields or louvers or opaque lensing to prevent brightness and glare at normal viewing angles by directing illumination and light downward.

Grade. The slope of a road, street, or other public way specified in percentage terms.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Hardscape. Landscape improvements that are not live vegetation, and create an impervious surface.

Health Department and Health Officer. The agency and person designated by the Board of Trustees to administer the health regulations of the local government.

Health, Safety, or General Welfare. The purpose for which municipalities may adopt and enforce land use regulations for the prevention of harm or promotion of public benefit to the community; commonly referred to as the police power.

Homeowners Association. See Property Owners Association.

Infill Development. Development designed to occupy scattered or vacant parcels of land which remain after the majority of development has occurred in an area.

Intermediate Development. A subdivision containing less than four lots, a development disturbing between one and five acres. Requires the installation of a new public street or the extension of a water or sewer main line, and/or the installation of public improvements or infrastructure in excess of sidewalks, curb, gutter or fire hydrants.

Light Trespass. The shining of light produced by a light fixture beyond the boundaries of the property on which it is associated.

Local streets. Generally serve neighborhood traffic over very short distances and connect to higher use streets such as *collectors*. The primary purpose of a *local* street is to provide vehicular access to adjacent land.

Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, or transfer of ownership, or possession, or for building development.

Major Development. A subdivision containing four or more lots, or a development disturbing more than 5 acres.

Maximum initial horizontal illuminance. The maximum lighting level, measured in lumens three (3) feet above ground level, on a horizontal plane located directly below the centerline of the fixture.

Minor Development. A subdivision containing less than four lots, or a development disturbing more than 10,000 square feet but less than one acre. Does not require the installation of any new

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

public street or the extension of a water or sewer main line, or the installation of any public improvements beyond sidewalks, curb, gutter, dry utilities or fire hydrants.

Open Meetings Law. See Colorado Open Meetings Law.

Manufactured Housing. See definition in Sec. 16-4 of the Buena Vista Municipal Code.

Mobile Home. See definition in Sec. 16-4 of the Buena Vista Municipal Code.

Mobile Home Subdivision. A subdivision of land which creates two or more lots which are intended to be sold to third-party buyers for the placement thereon of a mobile home.

Money in Lieu of Land. Payment of money into a municipally ear-marked fund to provide for acquisition of facilities off-site in place of dedicating land or providing such facility on site.

Municipality. See Town.

Nonresidential Development. A development whose intended use is other than residential, such as commercial or industrial.

Off-Site. Any premises not located within the area of the property to be developed, whether or not in the common ownership of the applicant for development approval.

Official Comprehensive Plan. See Comprehensive Plan.

Ordinance. Any legislative action, however denominated, of the Town which has the force of law, including any amendment or repeal of any ordinance.

Parcel. See Lot and Tract.

Person. Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, limited liability entity, unincorporated association, or governmental or quasi-governmental entity.

Person Entitled to Notice. In the context of an application for a Minor or Intermediate Development or any other type of approval provided for in this Chapter, other than approval of a Major Development, a person who owns real property within 100 feet measured from any boundary line of the proposed development, according to the most current records of the Chaffee County Assessor. For a Major Development, a person entitled to notice is a person who owns real property within 500 feet measured from any boundary line of the proposed development, according to the most current records of the Chaffee County Assessor.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Phased Development Application. An application for development approval submitted pursuant to a specific plan in which the applicant proposes to immediately subdivide property, but develop the lots in one or more individual phases over a specified period of time.

Planned Unit Development (PUD). A development constructed on a tract of minimum size under single ownership planned and developed as an integral unit and consisting of a combination of residential and/or nonresidential uses on the land.

Planning Commission. The Planning and Zoning Commission of the Town of Buena Vista established pursuant to the provisions of Article IX of Chapter 2 of the Buena Vista Municipal Code.

Police Power. Inherent, delegated, or authorized legislative power for purposes of regulation to secure health, safety, and general welfare.

Preliminary Acceptance. Written letter from the Public Works Department following completion of construction. Warranty period begins following preliminary acceptance.

Preliminary Plan. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the development to be submitted to the Planning Commission and Board of Trustees for approval.

Property Owners Association. An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a development -- be it a lot, parcel site, unit plot, condominium, or any other interest -- is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.

Public Hearing. An adjudicatory proceeding held by the Board of Trustees preceded by published notice and actual notice to certain persons and at which certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that the requested approval should or should not be granted. Witnesses shall be subject to cross-examination. The rules of civil procedure and rules of evidence binding on the courts shall not, however, bind the Board of Trustees in connection with the holding of a public hearing.

Public Input Session. An informational meeting held by the Board of Trustees. Except as otherwise provided in this Chapter, no notice of such meeting is required, other than compliance with the Open Meetings Law. A public input session is not a public hearing; and the requirements and procedures required hereunder for a public hearing shall not apply to a public input session.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Public Improvement. Any drainage, ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Registered Engineer. An engineer properly licensed and registered in the State of Colorado.

Registered Land Surveyor. A land surveyor properly licensed and registered in the State of Colorado.

Regulations. The provisions of this Chapter 17 of the Town of Buena Vista, Colorado.

Right-of-Way. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for any other special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use on which such right-of-way is established.

Sale. The transfer of ownership, or any possessory interest in land, including installment land contract or contract for deed, deed, devise, intestate succession, or other transfer of an interest in a development or part thereof, whether by metes and bounds or lot and block description.

Security. The letter of credit or cash escrow provided by the applicant to secure its promises in the Development Improvement Agreement.

Setback. The distance between a building and the street line nearest to the building.

Site Specific Development Plan. A plan of the type described in Sec. 17-41 of these regulations, approved by the Town, which has been submitted by a landowner or his representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

Sketch Plan. A sketch preparatory to the preliminary plans of a Major Subdivision or Development to enable the applicant to save time and expense in reaching general agreement with the Planning Commission and Board of Trustees as to the form of the plat and the objectives of these regulations.

Structure. Anything constructed or erected.

Subdivide. The act or process of creating a subdivision.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Subdivider. Any person, firm, partnership, corporation or other entity that engages in the creation, development or formation of a subdivision or subdivision lots.

Subdivision. A lot or other parcel of land which has been divided into two or more lots for the purpose, whether immediate or in the future, of ownership, development, sale or conveyance. *Subdivision* shall also mean the process of dividing, or the division of, lots or other parcels of land into two or more separate lots, tracts, development sites, condominium units or parcels, whether by deed, metes and bounds description, or other means of division, for the purpose of conveyance or development, including divisions under the terms of the Town's development regulations. *Subdivision* shall also include the consolidation, aggregation or reconfiguration of lots or parcels into one or more new lots. Unless a division of land specified below is undertaken and/or adopted for the purpose of evading the requirements of this chapter, the term "subdivision" shall not apply to any division of land: (i) which is created by order of any court in this state, or by operation of law, provided that the town is given timely notice of and an opportunity to participate in such proceeding prior to the entry of the court order and the town does not file an appropriate pleading within twenty (20) days after receipt of such notice from the court; (ii) which is created by a lien, mortgage, deed of trust, or any other security instrument, or the foreclosure thereof; (iii) which creates a cemetery lot; (iv) which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property; (v) which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common, and any such interest shall be deemed for purposes of this chapter to be only one interest; (vi) which creates an easement or right-of-way for utility installation, solar access, open space, or pedestrian/vehicle travel; (vii) which is described in or created by a contract for the sale of land which is contingent upon the purchaser or seller obtaining approval pursuant to this chapter to subdivide the land subject to the contract prior to closing on the sale; or (viii) which is created by act of the board of trustees of the town dividing real property owned by the Town to the extent provided in Sec. 17-17.

Town. The Town of Buena Vista, Colorado.

Town Attorney. The licensed attorney designated by the Board of Trustees to furnish legal assistance for the administration of these regulations.

Town Engineer. The licensed engineer designated by the Board of Trustees to furnish engineering assistance for the administration of these regulations.

Townhome. A building on its own separate lot containing one dwelling unit that occupies space from the ground to the roof and is attached to one or more other dwelling units by at least one common wall. For the purposes of these regulations, townhome projects shall be considered a subdivision by virtue of creation of lots underlying the townhome structure.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Tract. A defined parcel of land.

Vegetated. Landscape area with live vegetation, such as grass, shrubs, and trees.

Vested Property Right. The right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

Zoning Ordinance. The provisions of Chapter 16 of the Buena Vista Municipal Code, as amended from time to time.

Sec. 17-23 Acts by Agent or Authorized Representative.

Whenever any action is required to be taken by these regulations, such actions may be taken by the person so required, or by such person's duly authorized agent or representative.

Sec. 17-24 to 17-25 (Reserved)

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

ARTICLE III DEVELOPMENT APPLICATION PROCEDURE AND APPROVAL PROCESS

Sec. 17-26 General Procedure.

- (a) **Compliance With Procedures Mandatory.** Before any land is developed the owner of the property proposed to be developed, or such person's authorized agent, shall apply for and secure approval of the proposed development in accordance with the following procedures.
- (b) **Classification of development.** Developments occurring within the Town are classified as follows:
 - 1. Minor Development;
 - 2. Intermediate Development; and
 - 3. Major Development.

The procedure to be followed to obtain approval for each type of development is set forth hereafter.

- (c) **Official Submission Date.** For purposes of these regulations, and any other applicable law, the date of closure of any public hearing conducted under this article, inclusive of any adjourned date of such hearing, shall constitute the official submission date for the purpose of calculating or commencing any time period in which a final plat shall be approved, denied, or conditionally approved or denied.
- (d) **Exemptions.**

Notwithstanding subsection (a) above, the following land development activities shall be exempt from the full development process and procedures set forth in this article:

- 1. **Lot Line Adjustment.** An adjustment of a lot line between two contiguous lots if all of the following conditions have been met.
 - (a) The requested adjustment is necessary to correct a survey or engineering error in a recorded plat, or to allow an insubstantial boundary change between adjacent lots or parcels to relieve hardship or practical necessity, or to allow a transfer of land from a larger conforming lot to a smaller non-conforming lot so as to make both lots conforming, or to allow a boundary change between lots or parcels that is not intended or will result in an avoidance of the purpose of this chapter.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- (b) All owners whose lot line(s) or boundary line(s) are subject to the adjustment shall join in the lot line adjustment application.
2. **Elimination of Lot Lines.** The elimination of lot lines to merge not more than two (2) conforming lots, or to merge two (2) or more non-conforming lots, but not more than are necessary to create a single conforming lot within the applicable zoning district, if all of the following conditions have been met.
- (a) The lots to be consolidated are under one and the same ownership.
 - (b) The consolidated lot resulting from the elimination of lot lines will not exceed any lot size maximum or other regulation established for the zone district in which the lot is situated.
 - (c) The proposed elimination of the lot line(s) is not intended or will result in an avoidance of the purposes of this chapter.
 - (d) Except for the construction or enlargement of a single-family or duplex residence and/or an accessory building, when allowed by right under the applicable zoning district regulations, no development shall be permitted on a consolidated lot in a residential zone district absent prior review and approval of the proposed development under the provisions of this Chapter 17 and/or the Multifamily Design Review Standards set forth in Chapter 18 of the Buena Vista Municipal Code.
3. **Duplex conversion subdivision.** The division of a single lot on which an existing duplex dwelling is located, or is to be constructed, into two (2) separate lots if all of the following conditions have been met.
- (a) The duplex is to be divided along a code-compliant fire-resistant common wall into two separate single-family dwelling units on separate lots of conforming size in the zone district, or on lots not less than 5,000 square feet in size if the minimum lot size for the zone district cannot be obtained.
 - (b) Each of the dwelling units is served by its own separate utility service lines and meters inclusive of water, sewer, electricity and natural gas.
 - (c) A common-wall maintenance agreement shall be established and recorded to run with the land comprising the proposed duplex lots.
 - (d) Except for the original primary structure(s) comprising the dwelling units and any common and/or side-by-side or connected garages or driveway(s), all new structures, or the expansion of any existing structures, on the new duplex lots shall be subject to the setback requirements for the underlying zone district in which the lots are located.
 - (e) The proposed duplex lots shall be the same size, or approximately the

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

same, and each lot shall have its own direct access to a street.

(e) Condominiums

1. Processing of Applications

- (a) For purposes of these regulations, the creation or abolition of new condominium units or of a planned community as defined in Section 38-33.3-103(22) C.R.S., as may be amended, constitutes the creation of separate interests and is considered a subdivision action.
- (b) Notwithstanding the definitions of major and minor developments at Section 17-22 of this chapter, condominium developments of twenty (20) or more units shall be processed by the Town as a major development according to the requirements of Section 17-29. The applicant may apply for combined preliminary/final subdivision plat review, which combined review may be granted at the sole discretion of the Development Coordinator.
- (c) Condominium developments of less than twenty units shall be processed by the Town as a minor or intermediate development pursuant to Sections 17-27 or 28 of this chapter, as appropriate depending on whether installation of public improvements or infrastructure is proposed. Notwithstanding the provision of Section 17-27, for all condominium minor developments, a public hearing shall be held before the Planning Commission, whose decision shall constitute final approval or denial of the application; provided however, that applicants shall have the opportunity to appeal the decision of the Planning Commission on a condominium minor development within thirty (30) days to the Board of Trustees.
- (d) Development applications for detached, single-family residences proposed as condominiums with common interest ownership of the lot or lots underlying the units shall be processed as development actions.

2. Submittal requirements. In addition to the development application requirements at Sections 17-27 through 29, as applicable, all condominium development applicants shall submit the supplementary information and comply with the regulations cited herein:

- (a) Applicants shall comply with the Town's multifamily design review standards at Section 18-26 of this Code. Further, nothing herein shall be construed to waive the provisions of Section 16-147 of the Code, which requires a special use permit for multifamily dwellings in the Town's R-2 Zone District.
- (b) Twenty (20) copies of a preliminary condominium plat (see subsection (e) requirement for amended plat/map) shall be submitted showing the following. These items may be combined with the general development plan submittal requirements at Sections 17-27 through 29 as one document.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- (i) Required. parking spaces and joint trash collection areas;
 - (ii) Floor plans, elevations, and site plan as required to show separate ownership of all separate units, common elements, and limited common elements labeled as such,
 - (iii) Number, type, and floor area of units, common elements and limited elements, delineated in square feet and fractions thereof; proposed use for each unit; land area; floor area ratio; and
 - (iv) Statement of the total number of units shown on the proposed plat.
 - (c) Applications for condominium projects shall include documentation showing compliance with the standards and terms of the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-201, et seq., as may be amended.
 - (d) At submission of a preliminary development plan for major condominium developments or final development plan for minor or intermediate condominium developments, the applicant shall submit detailed engineering plans and specifications for all improvements, whether private or public.
 - (e) After buildings have been constructed and final "as-built" surveys have been completed, the applicant shall submit an amended condominium plat showing graphically and dimensionally the subdivision of buildings into volumetric spaces and the relationship of these spaces with the boundaries of the site and other appurtenances on the site. These condominium plats shall comply with the requirements of C.R.S. §38-33.3-209, as may be amended, and may be approved administratively by the Development Coordinator without further review by the Board of Trustees or the Planning Commission. No individual condominium unit shall be sold into separate ownership until and unless a condominium plat has been approved by the Town based upon an "as-built" survey of the unit boundaries and such plat has been recorded in the real estate records of Chaffee County. A plat note on the Final Subdivision Plat for each condominium development shall be included to this effect.
3. **Condominium conversions.** An applicant proposing to condominiumize an existing building is exempt from the development requirements described in subsection (1) but must submit a condominium conversion inspection report to the Building Official describing the structural condition of the building, the proposed condominium units, and their compliance with all building and fire safety codes. Applications for existing building condominiumization must also

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

comply with the requirements of subsection (2) above. The applicant shall make the building and all proposed condominium units available for inspection by the Building Official if the Building Official deems such inspection necessary to conform compliance of the building and/or units with building and fire safety codes. The cost of such inspections shall be borne by the applicant. Notwithstanding the provision that states the regulations will only apply to new buildings, the applicant shall further comply with the Town's multifamily design review standards at Section 18-26 of this Code. Review and approval of an application to condominiumize an existing building shall be per the terms and conditions of Section 17-26.5(a) through (e) of this chapter. The conversion of an existing structure to multiple ownership interests shall not be permitted if the use of the structure is nonconforming pursuant to Chapter 16, Article VII of this Code.

Sec. 17-27 Exemption Procedures.

Land development activities eligible for exemption from normal development standards and processes shall be subject to the following procedures:

- (a) All applicants for a development exemption shall meet with the Development Coordinator to discuss exemption procedures prior to the submission of an application.
- (b) All applicants shall submit a complete application, accompanied by any required fee, and for subdivision exemption requests a professionally prepared subdivision exemption plat substantially conforming in all respects to the applicable requirements of Article IV of this chapter and illustrating all proposed adjusted lot lines and lots. The applicant shall provide no less than an original and two (2) copies of the proposed subdivision exemption plat unless otherwise specified by the Development Coordinator.
- (c) All applications for a development exemption shall be initially reviewed by the Development Coordinator for recommendation and then forwarded to the Chair of the Planning and Zoning Commission, who shall approve or deny same within thirty (30) days without need for notice or hearing. Appeals from a decision of the Chair of the Planning and Zoning Commission shall be to the Board of Trustees in accordance with the procedures set forth in subsection (e) below.
- (d) For subdivision exemption requests, upon approval of an application, the Chair of the Planning and Zoning Commission shall sign a reproducible mylar original of the final subdivision exemption plat substantially conforming in all applicable respects to the requirements of Article IV of this chapter, and two (2) duplicate paper prints

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

of the mylar. One paper print shall be returned to the applicant. The Town Clerk shall file the approved plat with the County Clerk and Recorder as soon as reasonably possible, with the cost thereof to be borne by the applicant.

- (e) Appeals from a decision approving or denying a development exemption shall be made to the Board of Trustees in writing by filing same with the Town Clerk within ten (10) days from the date of the decision appealed from. All appeals shall be heard by the Board of Trustees de novo and shall be conducted at a public meeting within thirty (30) days from the filing of the appeal, or as soon thereafter as can be accommodated. The Town Clerk shall both 1) notify the appellant by certified mail, return receipt requested, of the date the appeal shall be heard and 2) publish notice thereof in a newspaper of general circulation at least seven (7) days in advance of the hearing. The decision of the Board of Trustees on appeal may be issued orally, but shall thereafter be reduced to writing within a reasonable period of time after the conclusion of the hearing and mailed to the appellant.
- (f) Aggregation and Consolidation of Lots for Development Purposes. Any application seeking to simultaneously merge or aggregate two or more lots or parcels and then subdivide same for the purpose of creating two (2) or more new conforming lots shall be reviewed and approved under the procedures and standards utilized for establishing a minor, intermediate, or major development, as the case may be, depending upon the total number of new lots sought to be created.

Sec. 17-28 Minor Development

- (a) **Pre-Application Conference.** Before submitting an application for a Minor Development, the applicant shall schedule an appointment and meet with the Development Coordinator to discuss the procedure for approval of such an application and the requirements as to the dedication of land for public utility easements, utility extensions, required rights-of-way dedications, and similar matters. The Development Coordinator shall also advise the applicant, when appropriate, to discuss the proposed development with those officials who must eventually approve those aspects of the development coming within their jurisdiction.
- (b) **Application Procedure and Requirements.** After meeting with the Development Coordinator, the owner of the land, or such person's authorized agent, shall file an application for approval of a Minor Development with the Planning and Zoning Commission. The application shall:
 - 1. Be made on forms available at the office of the Development Coordinator;

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

2. Be presented to the Development Coordinator;
3. Be accompanied by minimum of ten (10) full size (24"x36") and twenty (20) half-size (11"x17") copies of a site plan at a maximum scale of 1'=50', including the following:
 - (a) The correct legal description of the lot or parcel which is proposed to be developed,
 - (b) The square footage of the total development and the individual square footage of each of the new lots,
 - (c) Identification of all existing and proposed structures and providing square footage and finished floor elevations, with dimensions to all property lines
 - (d) All existing and proposed utilities,
 - (e) The size of all existing and proposed easements,
 - (f) Existing and proposed site access, and existing and proposed continuations of current and future streets and bikeway/pedestrian trails,
 - (g) Construction plan requirements as set forth in Article IV for minor developments
4. Be accompanied by letters from each public utility provider stating the ability of such provider to provide utility service to the development.
5. Be accompanied by proof of ownership of the property proposed to be developed;
6. Be accompanied by a fee as set forth in Article IX of this Chapter;
7. Include an address and telephone number of a person who shall be authorized to receive all notices required by these regulations;
8. Include the names and addresses of all persons entitled to receive notice of the consideration of the application, together with a stamped legal-size envelope for each such person to be used to mail notice of the public hearing; and
9. Whenever the plat of a Minor Development covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than one hundred (100) feet to the inch, a sketch in pen or pencil of the proposed development area, together with its proposed street system, and an indication of the probable future street system, and an indication of the probable future street and drainage

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

system of the remaining portion of the tract.

(c) **Approval Procedure.**

1. Upon receipt of all required submittal materials the Development Coordinator shall place the matter on the next available regular meeting agenda of the Planning Commission for review and the making of a recommendation to the Board of Trustees. No notice shall be required in connection with the review by the Planning Commission, other than the Planning Commission's compliance with the requirements of the Colorado Open Meeting Law. The Planning Commission may continue its review from time to time until its review is completed.
2. Following consideration of the application the Planning Commission shall vote to recommend approval, conditional approval or denial of the application to the Board of Trustees.
3. Upon receipt of the recommendation from the Planning Commission the Development Coordinator shall schedule a public hearing on the application before the Board of Trustees. Such hearing shall be held not less than twenty (20) nor more than thirty (30) days after the receipt by the Development Coordinator of the recommendation of the Planning Commission, unless the applicant waives this requirement and agrees to an extension of this period.
4. Notice of the public hearing shall be published once in a newspaper of general circulation in the Town at least seven (7) days prior to the hearing. Notice of the public hearing shall also be mailed to all persons entitled to notice by certificate of mail not less than five (5) days prior to the date of the hearing. Unless otherwise indicated in the record of the public hearing, the appearance of a person at the public hearing shall constitute a waiver of notice of the hearing.
5. The Development Coordinator shall furnish one (1) poster to the applicant to be posted by the applicant on the property proposed to be subdivided at least five (5) days prior to the public hearing. At the time of the public hearing, the applicant shall submit an affidavit stating that the applicant has placed the poster provided by the Development Coordinator on the property proposed to be subdivided.
6. Within thirty (30) days of the completion of the public hearing the Board of Trustees shall, by Resolution, approve, deny or conditionally approve the application.

(d) **Standards for Approval of a Minor Development.** No proposed Minor Development shall be approved by the Board of Trustees unless the applicant proves by clear and convincing evidence that:

1. The development conforms in all respects to the requirements of this Chapter;

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

2. New lots to be created by the Minor Development meet the lot size requirements of the Town's zoning ordinance;
3. Adequate utility service is or will be available to serve all new lots, and proper easements for the installation of such utility service exist or will be created;
4. The applicant has dedicated or will dedicate to the Town those easements and rights-of-way lawfully required by the Town for current and future streets, utilities and bicycle/pedestrian trails; and
5. Proper drainage control has been demonstrated.

(e) Signing and Recordation of Plan for Minor Development.

1. The developer shall incorporate all conditions of approval and submit final documents for execution within eighteen (18) months of Trustee approval. If not completed within eighteen (18) months the applicant must reapply for final approval. The Mayor and Chairperson of the Planning and Zoning Commission shall execute the approved final plan for a Minor Development within 30 days after the applicant has submitted same to the Town, along with any and all other documents and evidence, if necessary, demonstrating that all applicable conditions of approval for the development have been satisfied, including the execution of a development or subdivision improvements agreement and the full payment of all fees. No person shall sell, transfer, convey, lease or rent, or negotiate to sell, transfer, convey, lease or rent, any lot or other property within the development until the development plan has been duly recorded in the office of the Chaffee County Clerk and Recorder. All public or other development improvements that may be installed as part of a minor development, if any, shall be subject to warranty after construction and acceptance as required at Sec. 17-46(b) of this chapter. No building permit shall be processed by the Town for any lot prior to the satisfactory installation and inspection of water lines and fire hydrants, and a driveable surface for emergency vehicles. No Certificate of Occupancy shall be processed or issued by the Town for any lot prior to the complete and satisfactory installation of all development improvements or infrastructure required to serve such lot.
2. The Mayor and the Chair of the Planning and Zoning Commission shall sign the reproducible mylar original of the final development plan and two (2) prints of the final development plan. The prints will be returned to the applicant's engineer.
3. It shall be the responsibility of the Town Clerk to file the approved plan with the county clerk and recorder's office within ten (10) days of the date of signature. Simultaneously with the filing of the final plan, the Town Clerk shall also record the development or subdivision improvements agreement and any agreement for dedications, if any, together with such other legal documents as may be required to be recorded by the Town Attorney. The applicant shall bear the cost of all recordation fees.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- (f) **Limitation on Minor Development.** In order to deter the piecemeal development of land and insure the timely installation of necessary public improvements, no real property may be the subject of a Minor Development more than once. In the event application is made to redevelop property that has previously been the subject of a Minor Development, such application must be processed and approved as an Intermediate Development unless the proposed development requires processing and approval as a Major Development.

Sec. 17-29 Intermediate Development.

- (a) **Pre-application Conference.** Before submitting an application for an Intermediate Development, the applicant shall schedule an appointment and meet with the Development Coordinator to discuss the procedure for approval of such an application and the requirements as to the dedication of land for public utility easements, utility extensions, required rights-of-way dedications, and similar matters. The Development Coordinator shall also advise the applicant, when appropriate, to discuss the proposed development with those officials who must eventually approve those aspects of the development coming within their jurisdiction.
- (b) **Application Procedure and Requirements.** After meeting with the Development Coordinator, the owner of the land, or such person's authorized agent, shall file an application for approval of an Intermediate Development with the Planning and Zoning Commission. The application shall:
1. Be made on forms available at the office of the Development Coordinator;
 2. Be presented to the Development Coordinator;
 3. Be accompanied by minimum of ten (10) full sized (24"x36") and twenty (20) half size (11"x17") copies of the following:
 - (a) A proposed development plan and for subdivisions, a proposed subdivision plat prepared by a registered surveyor meeting the requirements and specifications of Article IV of this Chapter.
 - (b) Preliminary construction plans prepared by a registered engineer and meeting the requirements of Article IV of this Chapter.
 4. Be accompanied by letters from each public utility provider stating the ability of such provider to provide utility service to the development.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

5. Be accompanied by proof of ownership of the property proposed to be developed;
6. Be accompanied by a fee as set forth in Article IX of this Chapter;
7. Include an address and telephone number of a person who shall be authorized to receive all notices required by these regulations; and
8. Include the names and addresses of all persons entitled to receive notice of the consideration of the application, together with a stamped legal-size envelope for each such person to be used to mail notice of the public hearing.
9. Whenever the plan of an Intermediate Development covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than one hundred (100) feet to the inch, a sketch in pen or pencil of the proposed development area, together with its proposed street system, and an indication of the probable future street system, and an indication of the probable future street and drainage system of the remaining portion of the tract.

(c) **Approval Procedure.**

1. Upon receipt of all required submittal materials the Development Coordinator shall place the matter on the next available regular meeting agenda of the Planning Commission for review and the making of a recommendation to the Board of Trustees. No notice shall be required in connection with the review by the Planning Commission, other than the Planning Commission's compliance with the requirements of the Colorado Open Meeting Law. The Planning Commission may continue its review from time to time until its review is completed.
2. Following consideration of the application the Planning Commission shall vote to recommend approval, conditional approval or denial of the application to the Board of Trustees.
3. Upon receipt of the written recommendation of the Planning Commission, the Development Coordinator shall schedule a public hearing on the application before the Board of Trustees to be held not less than twenty (20) nor more than sixty (60) days after the date of receipt of the Planning Commission recommendation, unless the applicant agrees in writing to an extension of time.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

4. Notice of the public hearing shall be published once in a newspaper of general circulation in the Town at least seven (7) days prior to the hearing. Notice of the public hearing shall also be mailed to all persons entitled to notice by certificate of mail not less than five (5) days prior to the date of the hearing. Unless otherwise indicated in the record of the public hearing, the appearance of a person at the public hearing shall constitute a waiver of notice of the hearing.
 5. The Development Coordinator shall furnish one (1) poster to the applicant to be posted by the applicant on the property proposed to be subdivided at least five (5) days prior to the public hearing. At the time of the public hearing, the applicant shall submit an affidavit stating that the applicant has placed the poster provided by the Development Coordinator on the property proposed to be subdivided.
 6. Within thirty (30) days of the completion of the public hearing the Board of Trustees shall, by Resolution, approve, deny or conditionally approve the application.
- d) **Standards of Approval for Intermediate Development.** No proposed Intermediate Development shall be approved by the Board of Trustees unless the applicant proves by clear and convincing evidence that:
1. The development conforms in all respects to the requirements of this Chapter;
 2. The development conforms in all respects to the requirements of the Town's zoning ordinance;
 3. The proposed development will not result in the scattered development of land that leaves undeveloped parcels of land lacking urban services between developed parcels;
 4. The applicant has dedicated or will dedicate to the Town those easements and rights-of-way lawfully required by the Town for current and future streets, utilities and bikeway/pedestrian trails; and
 5. The developer has taken every effort to mitigate the impact of the proposed development on the public health, safety, and welfare.
- (d) **Signing and Recordation of Plans for Intermediate Development.**
1. The developer shall incorporate all conditions of approval and submit final documents for execution within 18 months of Trustee approval, or shall reapply for final approval. The Mayor and Chairperson of the Planning and Zoning Commission shall execute the approved final plan for a Intermediate Development within 30 days after the applicant has submitted same to the Town, along with any and all other documents and

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

evidence, if necessary, demonstrating that all applicable conditions of approval for the development have been satisfied, including the execution of a development or subdivision improvements agreement and the full payment of all fees. No person shall sell, transfer, convey, lease or rent, or negotiate to sell, transfer, convey, lease or rent, any lot or other property within the development until the development plan has been duly recorded in the office of the Chaffee County Clerk and Recorder. All public or other development improvements that may be installed as part of a development, if any, shall be subject to warranty after construction and acceptance as required at Sec. 17-46(b) of this chapter. No Certificate of Occupancy shall be processed or issued by the Town for any lot prior to the complete and satisfactory installation of all development improvements or infrastructure required on such lot.

2. The Mayor and the Chair of the Planning and Zoning Commission shall sign the reproducible mylar original of the final development plan and two (2) prints of the final development plan. The prints will be returned to the applicant's engineer.
3. It shall be the responsibility of the Town Clerk to file the approved plat with the county clerk and recorder's office within ten (10) days of the date of signature. Simultaneously with the filing of the final plat, the Town Clerk shall also record the subdivision or development improvements agreement and any agreement for dedications, if any, together with such other legal documents as may be required to be recorded by the Town Attorney. The applicant shall bear the cost of all recordation fees.

- (e) **Development Improvements.** The construction of public and other development improvements to be installed as part of an Intermediate Development shall be secured by adequate bond, cash escrow, letter of credit, or other security instrument as approved by the Town, and shall be identified in a development or subdivision improvements agreement that shall be executed by the subdivider and the Town as a condition of approval for every Intermediate Development. All development improvements shall be subject to warranty after construction and acceptance. No building permit shall be processed or issued by the Town for any lot prior to the satisfactory installation and inspection of water lines and fire hydrants, and a driveable surface for emergency vehicles. No Certificate of Occupancy shall be processed by the Town for any lot prior to the submission, review and approval of final construction plans for all development infrastructure and improvements as required by the terms and conditions of the development approval and/or the terms of this code, and the complete and satisfactory installation of such infrastructures and improvements necessary to serve any lot or lots for which a building permit has been sought. All costs reasonably incurred by the Town in reviewing the approving final construction plans, inclusive of engineering and legal fees, shall be paid by the applicant.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-30 Major Development.

- (a) **General.** The process to obtain approval of a Major Development involves three separate and distinct steps: (i) approval of the sketch plan, (ii) approval of the preliminary plans; and (iii) approval of the final plans.
- (b) **Pre-application Conference.** Before submitting an application for a Major Development, the applicant shall schedule an appointment and meet with the Development Coordinator to discuss the procedure for approval of such an application and the requirements as to the dedication of land for public utility easements, utility extensions, required rights-of-way dedications, and similar matters. The Development Coordinator shall also advise the applicant, when appropriate, to discuss the proposed development with those officials who must eventually approve those aspects of the development coming within their jurisdiction.
- (c) **Sketch Plan.**
 - 1. **Submittal Requirements.** After meeting with the Development Coordinator the owner of the land, or such person's agent, shall file an application for approval of a Sketch Plan for a Major Development with the Planning Commission. The application shall:
 - (a) Be made on forms available at the office of the Development Coordinator;
 - (b) Be presented to the Development Coordinator;
 - (c) Be accompanied by minimum of ten (10) full size (24"x 36") and twenty (20) half-size (11"x17") copies of a sketch plan for the proposed development meeting the requirements of subparagraph 2 of this Paragraph (c);
 - (d) Be accompanied by a proposed development schedule;
 - (e) Be accompanied by a fee as set forth in Article IX of this Chapter;
 - (f) Include an address and telephone number of a person who shall be authorized to receive all notices required by these regulations; and
 - (g) Include the names and address of all persons entitled to receive notice of the consideration of the application, together with a stamped legal-size envelope for each such person to be used to mail notice of the public hearings.
 - (h) Be accompanied by letters from each public utility provider stating the ability of such provider to provide utility service to the development. The sketch plan shall contain such additional information as may be reasonably requested by the Development Coordinator;
 - (i) Be accompanied by proof of ownership of the property proposed to be developed;
 - (j) Whenever the plat of a Minor Development covers only a part of an applicant's

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

contiguous holdings, the applicant shall submit, at the scale of no more than one hundred (100) feet to the inch, a sketch in pen or pencil of the proposed development area, together with its proposed street system, and an indication of the probable future street system, and an indication of the probable future street and drainage system of the remaining portion of the tract.

2. **Contents.** Sketch plans submitted to the Planning Commission, prepared in pen or pencil, shall be drawn to a scale of not more than one hundred (100) feet to an inch and shall show the following information:

(a) **Name.**

- (i) Name of subdivision if property is within an existing subdivision.
- (ii) Proposed name if not within a previously platted subdivision. The proposed name shall not duplicate the name of any plat previously recorded.
- (iii) Name of property if no development name has been chosen. (This is commonly the name by which the property is locally known).

(b) **Ownership.**

- (i) Name and address, including telephone number, of legal owner or agent of property, and a copy of last instrument conveying title to each parcel of property involved in the proposed development, giving grantor, grantee, date, and land records reference.
- (ii) Copy of any existing legal rights-of-way or easements affecting the property.
- (iii) Existing covenants on the property, if any.
- (iv) Name and address, including telephone number, of the professional engineer and surveyor responsible for development design, for the design of public improvements, and for surveys.

(c) **Description.** Location of property by government lot, section, township, range and county. Also include graphic scale, north arrow, and date.

- (i) A vicinity map showing streets and other general development of the surrounding area. The sketch plan shall show all school and improvement district lines with the zones properly designated.
- (ii) Location of property lines, existing easements, burial grounds, railroad rights-of-way, watercourses, and existing wooded areas or trees eight (8) inches or more in diameter, measured four (4) feet above ground level; location, width, and names of all existing or platted streets or other public ways without or immediately adjacent to the tract.
- (iii) Location, sizes, elevations, and slopes of existing sewers, water mains, culverts, and other underground structures within the tract and immediately adjacent thereto; existing permanent building and utility poles on or immediately adjacent to the site and utility rights-of-way.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- (iv) Minimum of 10 (ten) foot topographic contours with elevation labels, at the same scale as the sketch plan.
- (v) The approximate location and widths of proposed streets sidewalks, and paths.
- (vi) Floodplains as shown on existing FIRM maps, with BFEs shown, if available.
- (vii) Preliminary provisions for collecting and discharging surface water drainage. Show location of proposed drainage and detention facilities.
- (viii) Preliminary proposals for connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal;
- (ix) The approximate location, dimensions, and areas of all proposed or existing lots.
- (x) The approximate location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed development.
- (xi) The location of temporary stakes to enable the Planning Commission and Board of Trustees to find and appraise features of the sketch plan in the field.
- (xii) Whenever the sketch plan covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than one hundred (100) feet to the inch, a sketch in pen or pencil of the proposed development area, together with its proposed street system, and an indication of the probable future street system, and an indication of the probable future street and drainage system of the remaining portion of the tract.

3. **Approval Procedure--Sketch Plan.**

- (a) The Development Coordinator shall furnish one (1) poster to the applicant to be posted by the applicant on the property proposed to be subdivided at least five (5) days prior to the public input session. At the time of the public input session, the applicant shall submit an affidavit stating that the applicant has placed the poster provided by the Development Coordinator on the property proposed to be subdivided.
- (b) Upon receipt of all required submittal materials the Development Coordinator shall place the sketch plan on the next available regular meeting agenda of a joint meeting of the Planning Commission and the Board of Trustees. No notice shall be required in connection with the joint review by the Planning Commission and the Board of Trustees, other than compliance with the requirements of the Colorado Open Meeting Law. The Planning Commission and Board of Trustees may continue their review from time to time until its review is completed.
- (c) Following consideration of the application the Planning Commission shall vote to recommend approval, conditional approval or denial of the sketch plan to the Board of Trustees.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

(d) Within thirty (30) days of the completion of the public input session the Board of Trustees shall, by Resolution, approve, deny or conditionally approve the sketch plan.

4. **Standards for Approval of Sketch Plan.** No proposed Sketch Plan shall be approved by the Board of Trustees unless the applicant proves by clear and convincing evidence that the property can be developed in conformance with all of the requirements of this Chapter.

(d) **PRELIMINARY PLANS.**

1. **Timing of Submission.** No sooner than thirty (30) days and not later than one hundred twenty (120) days after the date of the approval by the Board of Trustees of the sketch plan, the applicant may apply for preliminary plans approval. If the applicant fails to apply for preliminary plans approval within the 120-day period, the approval of the sketch plan shall lapse and be of no further effect, and a new sketch plan must be submitted for approval by the Planning Commission and the Board of Trustees.
2. **Preliminary Plans Submittal Requirements.** The applicant shall file with the Development Coordinator an application for approval of preliminary plans. The preliminary plans shall conform substantially to the sketch plan approved by the Board of Trustees. The application shall:
 - (a) Be made on forms available at the office of the Development Coordinator.
 - (b) Be accompanied by a fee as set forth in Article IX of this Chapter.
 - (c) Be accompanied by a minimum of ten (10) full-sized (24" x 36") and twenty (20) half-sized (11" x 17") copies of preliminary plans meeting the requirements of Subparagraph 3 of this Paragraph (d).
 - (d) Comply in all respects with the approved Sketch Plan.
 - (e) Include an address and telephone number of a person who shall be authorized to receive all notices required by these regulations.
 - (f) Include the names and address of all persons entitled to receive notice of the consideration of the application, together with a stamped legal-size envelope for each such person to be used to mail notice of the public hearing.
 - (g) Be presented to the Development Coordinator at least four (4) weeks prior to a regular meeting of the Commission.
 - (h) Include all requirements as set forth in Article IV.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

3. **Approval Procedure--Preliminary Plans.**

- (a) Upon receipt of all required submittal materials the Development Coordinator shall place the preliminary plans on the next available regular meeting agenda of the Planning Commission for review and the making of a recommendation to the Board of Trustees. No notice shall be required in connection with the review by the Planning Commission, other than the Planning Commission's compliance with the requirements of the Colorado Open Meeting Law. The Planning Commission shall continue its review until its review is completed.
- (b) Following consideration of the application the Planning Commission shall vote to recommend approval, conditional approval or denial of the preliminary plat to the Board of Trustees.
- (c) Upon receipt of the written recommendation of the Planning Commission, the Development Coordinator shall schedule a public hearing on the preliminary plat plan before the Board of Trustees to be held not less than twenty (20) nor more than sixty (60) days after the date of receipt of the Planning Commission's recommendation, unless the applicant agrees in writing to an extension of time.
- (d) Notice of the public hearing shall be published once in a newspaper of general circulation in the Town at least seven (7) days prior to the hearing. Notice of the public hearing shall also be mailed to all persons entitled to notice by certificate of mail not less than five (5) days prior to the date of the hearing. Unless otherwise indicated in the record of the public hearing, the appearance of a person at the public hearing shall constitute a waiver of notice of the hearing.
- (e) The Development Coordinator shall furnish one (1) poster to the applicant to be posted by the applicant on the property proposed to be developed at least five (5) days prior to the public hearing. At the time of the public hearing, the applicant shall submit an affidavit stating that the applicant has placed the poster provided to him by the Development Coordinator on the property proposed to be developed.
- (f) Within thirty (30) days of the completion of the public hearing the Board of Trustees shall, by Resolution, approve, deny or conditionally approve the preliminary plans.

4. **Standards for Approval of Preliminary Plans.** No proposed preliminary plans shall be approved by the Board of Trustees unless the applicant proves by clear and convincing evidence that:

- (a) The development conforms in all respects to the requirements of this Chapter.
- (b) The development conforms in all respects to the requirements of the Town's

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Zoning Ordinance.

- (c) The applicant has taken every effort to mitigate the impact of the proposed developments on the public health, safety, and welfare.

- 5. **Effective Period for Preliminary Plat.** The approval of a preliminary plan shall be effective for a period of one (1) year from the date that the preliminary plan is approved by the Board of Trustees, at the end of which time the applicant must have submitted a final development plan for approval. If a development plan is not submitted for final approval within the one (1) year period the preliminary plan approval and sketch plan approval shall lapse and shall be null and void, and the applicant shall be required to submit a new sketch plan for review and approval subject to the zoning restrictions and development regulations then in effect.

(e) **FINAL PLANS**

- 1. **Submittal Requirements.** The applicant shall file with the Development Coordinator an application for approval of final plans. The final plans shall conform substantially with the preliminary plan approved by the Board of Trustees. The application shall:
 - (a) Be made on forms available at the office of the Development Coordinator.
 - (b) Be accompanied by a fee as set forth in Article IX of this chapter.
 - (c) Be accompanied by a minimum of ten (10) full-sized (24"x36") and twenty (20) half size (11"x17") copies of construction plans meeting the requirements of Article IV.
 - (d) Comply in all respects with the approved preliminary plans.
 - (e) If a subdivision is involved, include the entire subdivision, or section thereof, which derives access from an existing state, county, or local government highway, as required by Section 31-23-214.1, C.R.S.
 - (f) Be presented to the Development coordinator at least four (4) weeks prior to a regular meeting of the Planning Commission.
 - (g) Identify all necessary and/or proposed land dedications to the Town for public streets, public utilities, easements, public rights -of-way, parks, or other public uses, and the method for effectuating such dedications, e.g. statutory dedication or by deed.
 - (h) Be accompanied by a proposed draft development or development improvements

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

agreement.

- (i) Be accompanied by a deposit equal to five percent (5%) of the cost estimate of the installation of all required streets, utilities and other public improvements to be used to reimburse the Town for all required construction inspections.
- (j) Include an address and telephone number of a person who shall be authorized to receive all notices required by these regulations.
- (k) Include the names and address of all persons entitled to receive notice of the consideration of the application, together with a stamped legal-size envelope for each person to be used to mail notice of the public hearing.

2. **Final Development Plans--Contents.**

- (a) **General.** The final development plans shall be presented at the same scale and contain the same information as the preliminary plans, except for any changes or additions required by the Board of Trustees approving the preliminary plans. The preliminary plans may be used as the final development plans if they meet these requirements and are revised in accordance with the Board of Trustees Resolution.
- (b) **Contents.** The final development plans shall comply in all respects with the requirements of Article IV of this Chapter.

3. **Approval Procedure--Final Plans.**

- (a) Upon receipt of all required submittal materials the Development Coordinator shall place the final plans on the next available regular meeting agenda of the Planning Commission for review and the making of a recommendation to the Board of Trustees. No notice shall be required in connection with the review by the Planning Commission, other than the Planning Commission's compliance with the requirements of the Colorado Open Meeting Law. The Planning Commission shall continue its review until its review is completed.
- (b) Following consideration of the application the Planning Commission shall vote to recommend approval, conditional approval or denial of the final plans to the Board of Trustees.
- (c) Upon receipt of the written recommendation of the Planning Commission, the Development Coordinator shall schedule a public hearing on the final plan before the Board of Trustees to be held not less than twenty (20) nor more than sixty (60) days after the date of receipt of the Planning Commission's recommendation, unless the applicant agrees in writing to an extension of time.
- (d) Notice of the public hearing shall be published once in a newspaper of general circulation in the Town at least seven (7) days prior to the hearing. Notice of the

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

public hearing shall also be mailed to all persons entitled to notice by certificate of mail not less than five (5) days prior to the date of the hearing. Unless otherwise indicated in the record of the public hearing, the appearance of a person at the public hearing shall constitute a waiver of notice of the hearing.

- (e) The Development Coordinator shall furnish one (1) poster to the applicant to be posted by the applicant on the property proposed to be subdivided at least five (5) days prior to the public hearing. At the time of the public hearing, the applicant shall submit an affidavit stating that the applicant has placed the poster provided to him by the Development Coordinator on the property proposed to be subdivided.
 - (f) Within thirty (30) days of the completion of the public hearing the Board of Trustees shall, by Resolution, approve, deny or conditionally approve the final plans.
4. **Standards for Approval of Final Plat.** No proposed final plat shall be approved by the Board of Trustees unless the applicant proves by clear and convincing evidence that:
- (a) The development conforms in all respects to the requirements of this Chapter.
 - (b) The development conforms in all respect to the requirements of the Town's Zoning Ordinance.
 - (c) The applicant has taken every effort to mitigate the impact of the proposed development on the public health, safety, and welfare.
5. **Development Improvements.** The construction of public and other development improvements to be installed as part of a Major Development shall be secured by adequate bond, cash escrow, letter of credit, or other security instrument as approved by the Town, and shall be identified in a development or development improvements agreement that shall be executed by the applicant and the Town as a condition of approval for every Major Development. All development improvements shall be subject to warranty after construction and acceptance. No building permit shall be processed or issued by the Town for any development prior to the submission, review and approval of final construction plans for all development infrastructure and improvements as required by the terms and conditions of the development approval and/or the terms of this code, and the complete and satisfactory installation of such improvements and infrastructure necessary to serve any lot for which a building permit has been sought. All costs reasonably incurred by the Town in reviewing and approving final construction plans, inclusive of engineering and legal fees, shall be paid by the applicant.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

6. **Signing and Recordation of Plans for Major Development.**

- (a) The developer shall incorporate all conditions of approval and submit final documents for execution within eighteen (18) months of Trustee approval, or shall reapply for final approval. The Mayor and Chairperson of the Planning and Zoning Commission shall execute the approved final plan for a Major Development within 30 days after the applicant has submitted same to the Town, along with any and all other documents and evidence, if necessary, demonstrating that all applicable conditions of approval for the development have been satisfied, including the execution of a development or development improvements agreement and the full payment of all fees. No person shall sell, transfer, convey, lease or rent, or negotiate to sell, transfer, convey, lease or rent, any lot or other property within the development until the development plan has been duly recorded in the office of the Chaffee County Clerk and Recorder.
- (b) The Mayor and the Chair of the Planning and Zoning Commission shall sign the reproducible mylar original of the final development plan and two (2) prints of the development plan. The prints will be returned to the applicant's engineer.
- (c) It shall be the responsibility of the Town Clerk to file the approved plan with the county clerk and recorder's office within ten (10) days of the date of signature. Simultaneously with the filing of the final plan, the Town Clerk shall also record the development or subdivision improvements agreement and any agreement for dedications, if any, together with such other legal documents as may be required to be recorded by the Town Attorney. The applicant shall bear the cost of all recordation fees.

7. **Phasing of Major Development Plans.** Prior to granting final approval of a Major Development plan, the Board of Trustees may permit the plan to be divided into two or more phases or sections and may impose such conditions upon the filing of the phases or sections as it may deem necessary to assure the orderly development of the plan. The Board of Trustees may require that the Development Improvement Agreement and performance guarantee be in such amount as is commensurate with the phase or phases of the plan to be filed and may defer the remaining amount of the security until the remaining phases of the plan are offered for filing. The developer may also file irrevocable offers to dedicate streets and public improvements in the sections offered to be filed and defer filing offers of dedication for the remaining phases until those phases, subject to any conditions imposed by the Board of Trustees, shall be granted concurrently with final approval of the plan. If phasing is approved, the approved development plan showing the approved phase shall be filed with the County Clerk and Recorder's office. Such phases must contain at least twenty five percent (25%) of the

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

total number of lots contained in the approved plan. The approval of all remaining phases not filed with the Clerk and Recorder's office shall automatically expire unless such phases have been approved for filing by the Board of Trustees, all fees paid, all instruments and offers of dedication submitted and development improvement agreements, security and performance bonds, if any, approved and actually filed with the Clerk and Recorder's office within three (3) years of the date of final development approval of the development plan.

8. **Suspension and Invalidation of Final Plan.** If the Town suspends final plan approval for any development plan under these regulations, it shall record a document with the Chaffee County Clerk and Recorder's Office declaring that final approval for the development is suspended and that the further sale, conveyance or development of property within the development is prohibited; except that this prohibition shall not apply to persons or parties who have acquired property from the applicant unless the person or party acquiring property meets the definition of "common ownership" in Section 17-22. If any court of competent jurisdiction invalidates final plan approval for any development, the municipality shall record a document with the Chaffee County Clerk and Recorder's office declaring that the final plan for the development is no longer valid and that further development activity is prohibited.

Sec. 17-31 to 17-35 (Reserved)

ARTICLE IV DEVELOPMENT PLAN STANDARDS

Sec. 17-36 Development Plans - Contents

(a) **General.** The development plans shall include a plat prepared by a licensed land surveyor (if the subdivision of land is involved) and construction plans and design reports prepared by a licensed engineer, and shall substantially conform in all respects to the requirements of the following criteria.

(b) **Substantial Completion:** The lack of information under any item specified herein, or improper information supplied by the applicant, may be cause for disapproval of a preliminary plan.

1. Plat Requirements. Plats are required for all developments involving the subdivision of land, including minor, intermediate and major developments.

(a) **General.** All plats required or authorized by these regulations shall comply with the requirements of Section 38-51-106, C.R.S. To the extent of any conflict between the provisions of such statute and these regulations, the provisions of the statute shall control.

(b) **Preparation.** All plats required or authorized by these regulations shall be prepared by a licensed land surveyor at a scale not more than one (1) inch equals one hundred (100) feet, may be prepared in pen or pencil, and the sheets shall be numbered in sequence if more than one (1) sheet is issued. Sheets shall be twenty-four inches by thirty six inches (24" x 36").

(c) **Features.** All plats required or authorized by these regulations shall show the following:

- (i) The location of property with respect to surrounding properties and streets.
- (ii) The locations and dimensions of all boundary lines of the property to be expressed in feet and decimals of a foot.
- (iii) The location of existing streets, easements, water bodies, streams, and other pertinent features such as railroads, buildings, parks, cemeteries,

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

drainage ditches, and bridges.

- (iv) The location and width of all existing and proposed streets and easements, alleys, and other public ways, and easement and proposed street rights-of-way and building set-back lines.
- (v) The locations, dimensions, and areas of all proposed or existing lots.
- (vi) The location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose of those set aside, and conditions, if any, of the dedication or reservation.
- (vii) The name and address of the owner or owners of land to be subdivided, the name and address of the developer if other than the owner, and the name and registration number of the land surveyor who prepared the plat.
- (viii) The date of the map, approximate true north point, scale, the basis of bearing and title showing the name of the subdivision.
- (ix) Sufficient data to determine readily the location, bearing, and length of all lines.
- (x) The location of all proposed monuments.
- (xi) Names of the subdivision and all new streets as approved by the Board of Trustees,
- (xii) Blocks shall be consecutively numbered in numerical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered consecutively throughout the several additions.
- (xiii) All lots in each block shall be consecutively numbered. Outlots shall be lettered in alphabetical order. If blocks are numbered or lettered, outlots shall be lettered in alphabetical order within each block.
- (xiv) An explanation and location of all easements.
- (xv) An explanation of reservations, if any.
- (xvi) A notation of any self-imposed restrictions, and locations of any building lines proposed to be established in this manner, if required by the Board of Trustees in accordance with these regulations.
- (xvii) Endorsement on the plat by every person having a security interest in the subdivision property that they are subordinating their liens to all covenants, servitudes, and easements imposed on the property.
- (xviii) All monuments erected, corners, and other points established in the field in their proper places. The material of which the monuments, corners, or other points are made shall be noted at the representation thereof or by

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

legend, except that lot corners need not be shown. The legend for metal monuments shall indicate the kind of metal, the diameter, length, and weight per lineal foot of the monuments.

- (xix) The plat certificates as described in Section 17-32 to this Article IV.

(d) Required Plat Certificates

- (i) **General.** The following certificates and notices shall be shown on the face of the Final Plat. Any other certificates or notices that are deemed necessary for the purposes of the particular plat shall also be included at the time of its submission for execution by the Town.
- (ii) **Endorsements.** The preliminary plat shall contain a block for the endorsement thereon of both the owner and the Mayor, which shall be substantially as follows:

Owner	Date

Mayor	Date

- (iii) **Certificates.** The following certificates shall be clearly typed on the plat:

Land Dedications and Owner's Certificate.

KNOW ALL PERSONS BY THESE PRESENTS:

That _____, being the owner or owners of the following described real property situate in the Town of Buena Vista, County of Chaffee and State of Colorado, to wit:

(Legal Description)

has laid out, subdivided and platted the same into lots, tracts, streets, and easements as shown hereon under the name and style of [insert name of subdivision], and by these presents does hereby set apart

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

and dedicate to the Town of Buena Vista for public use all of the streets, alleys and other public ways and places as shown hereon, and hereby dedicates those portions of land labeled as utility easements for the installation and maintenance of public utilities as shown hereon. [and/or other purposes, as appropriate to the subject plat].

Executed the ____ day of _____, 20__.

Owner's or Owners' Name(s)

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ (printed name(s) of owner(s)). (If by natural persons, here insert name; if by persons acting in a representative official capacity, or as attorney-in-fact, then insert the name and said capacity of said person and reference document establishing such capacity; if by officer of a corporation, then insert the name of said officer as the president or vice president of such corporation, naming it; if by a general partner of a partnership, then insert the name of said person as a general partner).

Witness my hand and official seal.

(Seal)

Notary Public

My commission expires:

Buena Vista Planning and Zoning Commission Certificate:

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

This Plat is approved* this ____ day of _____, 20__.

TOWN OF BUENA VISTA PLANNING AND ZONING
COMMISSION

By

Chairperson

Buena Vista Board of Trustees Certificate:

This Plat is approved* this ____ day of _____, 20__.

TOWN OF BUENA VISTA, a Colorado municipal
corporation

(Seal)

By

Mayor

ATTEST:

Town Clerk

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

***This approval does not guarantee that the type of soil or flooding conditions of any lot shown hereon are such that a building permit may be issued. This approval is also with the understanding that all expenses involving necessary improvements for all utility services, paving, grading, landscaping, curbs, gutters, street lights, street signs, and sidewalks shall be financed by others and not the Town of Buena Vista. Notice is further hereby given that acceptance of this platted subdivision by the Town of Buena Vista does not automatically constitute an acceptance of the roads, rights of way and other public improvements shown hereon for maintenance by said Town. Until such roads and rights of way and improvements meet Town specifications and are specifically inspected and accepted by the Town, the maintenance, construction, and all other matters pertaining to or affecting said roads, rights of way and improvements are the sole responsibility of the subdivider and owners of the land embraced within this subdivision.**

Town Clerk's Certificate:

State of Colorado)

) ss.

Town of Buena Vista)

I hereby certify that this instrument was filed in my office at ____ o'clock ____M.,
_____20_____, and is duly recorded.

Town Clerk

Surveyor's Certificate:

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

I, _____, being a registered land surveyor in the State of Colorado, do hereby certify that this Plat of _____ was prepared by me and under my supervision, that both this Plat and the survey are true and accurate to the best of my knowledge and belief, and that the monuments were placed pursuant to 38-51-105, C.R.S.

Dated this ____ day of _____, 20__.

[Surveyor's name]/Registration No.]

Title Company Certificate:

_____ does hereby certify that we have examined the title to all lands shown hereon and all lands herein dedicated by virtue of this Plat and title to all such lands is in the above named Owner free and clear of all liens, taxes and

encumbrances, except as follows:

_____.

_____.

Dated this ____ day of _____, 20__.

Agent

Clerk and Recorder's Certificate:

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

STATE OF COLORADO)

) ss.

COUNTY OF CHAFFEE)

I hereby certify that this plat was filed in my office this _____ day of _____, 20__ under
Reception No. _____.

Chaffee County Clerk and Recorder

Notation for approval substantially as follows:

Owner Date

Mayor Date

Title, name, address, and signature of professional engineer, and date.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-37 Construction Plan Requirements

Draft construction plans for all required development improvements or infrastructure for intermediate and major developments shall be prepared and submitted for review as part of the application process for preliminary development approval. Plans shall be prepared by a registered engineer on sheets 24" x 30". Scale shall be minimum 1" = 20' and maximum 1" = 50'. All elevations shall be referred to the U.S.G.S. datum plane. The following, at a minimum, shall be shown:

- (a) Existing Conditions – minor, intermediate and major developments
 1. Existing topographic contours at 2-feet maximum intervals. The contours shall extend a minimum of 100-feet beyond the property lines. (This item not required for minor developments)
 2. Local streets and easements within and adjacent to the development with ROW width shown.
 3. Names and locations of surrounding developments.
 4. Floodplains as shown on existing FIRM maps, with BFEs shown, if available.
 5. Existing drainage facilities and structures, including irrigation ditches, roadside ditches, crosspans, drainageways, gutter flow directions, and culverts. All pertinent information such as material, size, shape, slope, and location shall also be included.
 6. The water elevations of adjoining lakes or streams at the date of the survey, and the approximate high- and low-water elevations of such lakes or streams. If the development borders a lake, river, or stream, the distances and bearings of a meander line established not less than twenty (20) feet back from the ordinary high-water mark of such waterways.

- (b) Grading and Drainage Plan – minor, intermediate and major developments
 1. All contents of Existing Conditions plan shall be included.
 2. Existing and proposed topographic contours at 2-feet maximum intervals required for intermediate and major developments. The contours shall extend a minimum of 100-feet beyond the property lines. For minor developments only spot elevations are required, for both existing and proposed features, as available.
 3. Define the boundaries of all subdrainage areas within the property;
 4. Proposed drainage facilities including detention basins, storm sewers, swales, riprap, and outlet structures.
 5. Proposed flow directions
 6. Any offsite features influencing development.
 7. Such other information as may be required to ensure that storm water originating both from the property and lands lying upgradient from the property will be adequately drained and controlled.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

8. For intermediate and major developments- Routing and accumulation of flows at various critical points for the initial and major storm runoff. Use rational method or other acceptable method to determine volumes.
 9. Volumes and release rates for detention storage facilities and information on outlet works. Use rational method or other acceptable method to determine volumes.
 10. Locations and slopes of cut and fill areas and methods of stabilization and revegetation. Cut and fill slopes shall not exceed 4:1.
- (c) Road Plan and Profile- intermediate and major developments, and minor if new roads are proposed. All design and construction must meet the applicable requirements of the "Americans with Disabilities Act" (ADA).
1. Profiles showing existing and proposed elevations along center lines of all roads. Where a proposed road intersects an existing road or roads, the horizontal and vertical alignment along the center line of the existing road or roads within one hundred (100) feet of the intersection shall be shown.
 2. Approximate radii of all curves, lengths of tangents, and central angles on all streets shall be shown.
 3. Vertical curve information
 4. Typical cross section shall be shown for each type of street in the project. For the "Standard Street Cross Sections", the designs will have the entire road/street prism (toe of fill to top of cut) within the necessary right-of way width. In situations where widths of right-of-way beyond the standard minimums would substantially reduce developable areas (lot square footage), then the Town may accept "Easements" for that area outside the required right-of-way but necessary for utility accommodations and maintenance purposes.
 5. Planview showing the locations of street pavements including curbs and gutters, sidewalks, sidewalks and sidewalk ramps, drainage swales, easements, rights-of-way, manholes, and catch basins;
 6. Locations of sidewalks and sidewalk ramps
- (d) Water Plan and Profile - intermediate and major developments, and minor if applicable
1. Plans and profiles showing the location, size, and invert elevations of existing and proposed water lines and fire hydrants;
 2. Show connection to any existing or proposed utility systems;
 3. Show exact location and size of all water, gas, or other underground utilities or structures, and if utilities cross waterlines show elevations of the utilities;
 4. Show existing and proposed locations and sizes of sanitary sewers and storm water collection systems.
- (e) Signing and Striping Plan - intermediate and major developments. Shall conform to the current Manual on Uniform Traffic Control Devices for Streets and Highways.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

1. Show all proposed street name signs at all intersections.
 2. Show the number and type of signs, devices, and markings at all locations.
- (f) Storm Water Quality Control Plan - intermediate and major developments
1. Reduce runoff and maximize storm water infiltration, by minimizing continuous impervious area to the extent possible.
 2. Preserve riparian habitat and broad shallow drainageways.
 3. Infiltration-type structural BMPs should be designed to capture runoff from the first ½ inch of rainfall from the entire development. Additional specialized BMPs should be considered for commercial or industrial sites. To mimic natural conditions, infiltration BMPs should be dispersed across the drainage area rather than concentrated at the outfall.
 4. Provide minimum water quality capture volume (WQCV) equal to the first ½ inch of rainfall on the entire development times the sites percent imperviousness, or as described in Volume 3 of the USDCM. The WQCV shall be increased by 20% to account for sedimentation and shall be in addition to the required flood detention volume.
- (g) Details- minor, intermediate and major developments, as applicable. Include, at a minimum, details specific to roadway, water, drainage and storm sewer, BMPs, signage, sidewalks and ramps.
- (h) Landscaping and tree/vegetation preservation plan - minor, intermediate and major developments
1. Survey or on-site verification documenting existing trees and vegetation within the development site in conformity with the Town of Buena Vista Planting Guide.
 2. Location, size, elevation, and other appropriate descriptions of any and each tree with a diameter of eight (8) inches or more, measured twelve (12) inches above ground level.
- (i) Cost estimate – include quantities, unit prices, and total prices. Engineering and project management costs shall be listed.

Sec. 17-38 Design Report Requirements.

For major developments, annexed properties, and as required by the Board of Trustees during preliminary plan approval. Complete engineering Design Reports, sealed by a Registered Engineer, shall be submitted to the Town with the Final Plan submittals, and as requested by the Board of Trustees per preliminary plan approval. Scope of the reports

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

shall be generally as described below. The Town may require additional engineering reports as needed during the development review process.

Two (2) copies of each report, prepared and signed by a Professional Engineer registered in the State of Colorado, shall be submitted to the Public Works Department for review. Reports shall be cleanly and clearly reproduced and legible throughout. Blurred or unreadable report contents, or incomplete reports, will be deemed unacceptable and will require resubmittal. Reports shall be typed and bound on 8-1/2" x 11" paper with pages numbered consecutively. Drawings, figures, tables, etc., shall be bound with the report or contained in an attached pocket.

A pre-submittal conference is suggested in cases involving large development or where special conditions or problems have become apparent during the development review process.

The design reports shall include: (a) Geotechnical Report, (b) Water Usage Report (c) Traffic Report, and (d) Drainage Report.

- (a) **Geotechnical Report** A licensed engineer shall prepare a geotechnical report for submittal with final plans. This report will be used to substantiate street pavement design and grading plan designs, or for any other plans needing such analysis for a site. The report consists of bore test results, with a map displaying the location of the test.

Design requirements as specified shall be followed at a minimum, unless the geotechnical results display that the soils have any of the following items: shrink-swell potential, ground water, wetness, erosion, flood hazard, corrosion potential, organic layers, and other pertinent issues. If these items are present the engineer shall include recommendations for approval by the Board of Trustees for:

1. Base courses beneath sidewalks, curbs and gutter, and pavement.
2. Material specifications and compaction requirements should be addressed for all roadway materials (subgrade, select, ABC, AC, seals, etc.). The pavement section is to be designed for a 20-year life. Pavement thickness design method shall be current Asphalt Institute Method, or other method acceptable to the Town.

- (b) **Water Usage Report** A Water Usage Report shall be submitted which clearly projects the following:

1. Average day, peak and annual estimated domestic water usage demands for the proposed development, separated by type of development (residential, commercial, office, etc.)

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

2. Peak and annual outdoor watering demands including, but not limited to, residential and open space irrigation.
3. Fire flow requirements based on the currently adopted International Fire Code and as determined by the Fire Department.
4. Include timelines for water consumption based on phasing plans for the approved development.
5. Include a detailed hydraulic analysis for each phase demonstrating the acceptable pressures and fire flows are available in all locations throughout the development.

(c) **Traffic/Access Impact Report.** A traffic/access impact analysis and report is required as part of the submittal for a development which meets any of the following criteria:

- A plan which will generate threshold level traffic. Threshold level traffic is defined as 100 or more peak direction trips to or from the site during either the peak hour of traffic on the adjacent roadway or the peak hour of traffic generation of the site itself.
- A request for annexation to the Town of an area greater than one acre with threshold traffic.
- A request for change of zoning where the development allowed by the new zoning will generate threshold level traffic.
- An analysis and report may also be required for development master plans or other developments to address localized safety and capacity deficiencies, or impact on adjacent neighborhoods. The Town Board shall determine the cases in which such an analysis is required and the points that need to be addressed.

1. **General.** The developer shall submit a Traffic/Access Impact Report, prepared by an engineer, which addresses the impact of the traffic generated by the development upon the traffic flow, congestion, and safety of the surrounding streets and other traffic facilities. The report shall identify the steps to be taken as part of the development to mitigate any adverse effects of the traffic generated by the development. For "phased" developments, the Traffic/Access Impact Report shall consider all phases through final build-out.

This analysis and report will include roadways and intersections immediately adjacent to the development and those roadways on which at least five percent (5%) of peak hour capacity at an intersection approach will be composed of trips predicted to be generated by the new development.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

2. **Contents.** The traffic/access impact analysis shall be performed as a part of the site design process. At a minimum, the following factors shall be included in the traffic analysis report:
 - (a) Study purpose and objectives.
 - (b) Description of the site and study area, including proposed plans for the site.
 - (c) Existing conditions adjacent to the development.
 - (d) Anticipated nearby land use developments.
 - (e) Accident summary/history for all intersections studied.
 - (f) Roadway and driveway geometrics.
 - (g) Previous studies and technical references.
 - (h) Trip generations, trip distribution, and modal split.
 - (i) Capacity analysis of the major street and project site access intersection locations within the study area.
 - (j) Projected future traffic volumes (20 year projections).
 - (k) Safety, including intersections and driveway sight distance.
 - (l) Circulation patterns.
 - (m) Traffic control needs.
 - (n) Transit needs or impacts.
 - (o) Transportation system management.
 - (p) Adequacy of on-site and off-site parking facilities.
 - (q) Pedestrian and bicycle movements.
 - (r) Service and delivery vehicle access.
 - (s) An assessment of the change in roadway operations resulting from the development traffic.
 - (t) Recommendations for site access and transportation improvements needed to maintain traffic flow to, from, within, and past the site at an acceptable and safe level of service.
3. **Level of Service.** No intersections are allowed that fall below a 'C' level due to the proposed development requires, or if an existing intersection already is rated lower than a level 'C' then that intersection rating may not be reduced by the proposed development. Reductions of any intersection of more than one level of service are not allowed. In the event that a traffic/access impact analysis determines that additional ingress, egress, dedication, signalization, or other action is required to mitigate the impact of the development upon traffic flow, the applicant or developer will be required to take such action or contribute financially to said action in proportion to the nature and extent of the impact of the proposed development prior to any approvals being granted by the Town, or as a condition of any such approvals.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

4. **Emergency Access** Traffic analysis must include an analysis to determine whether secondary and/or emergency access is needed. The Town Board of Trustees, during the plat approval process, will make the final decision regarding the need for secondary and/or emergency access based upon the recommendations of the development traffic/access impact analysis and recommendations from the Planning and Zoning Commission, the Town Engineer, and Town Staff.

The secondary and/or emergency access analysis shall include, but is not limited to, the following criteria:

- (a) Population density projections
- (b) Roadway widths
- (c) Topography
- (d) Vegetation (fuel) types in area
- (e) Response times
- (f) Distance/location of closest major arterial
- (g) Roadway surface
- (h) Layout of roads in development
- (i) Parking along streets or other possible restrictions
- (j) Reliability of primary access point (potential flooded areas, etc.)

5. **Cost Responsibility.** If the Town of Buena Vista prepares a transportation plan for a specific area which is used as the basis of major street layout and area ingress and egress, any subsequent development proposed within that specific area will reimburse the Town a proportionate share of the cost of the study.

(d) **Drainage Report**

1. **Purpose and scope.** All developments must provide control of storm drainage and protection of water quality in the interest of the health, safety, welfare, and property of the citizens and the Town. The "Urban Storm Drainage Criteria Manual" (USDCM) shall be used as a technical design reference to assist developers and engineers in the preparation of consistent and uniform design calculations. The USDCM, Volumes 1 through 3 and any amendments, may be consulted for all policies and technical specifications not included or modified herein.

Applicants shall provide, without cost to the Town, a drainage easement of proper width to accommodate drainage from a one-hundred (100) -year storm, for the purpose of maintaining drainage facilities for the transmission of all storm water generated upstream from and within the property. Notwithstanding this

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

requirement, any natural drainageway having an identifiable bed and banks which traverses any applicant's property shall not be encroached upon or altered so as to render the drainageway less suitable to accept and transport storm water which has historically flowed through such drainageway. The width of the storm drainage easement to be provided by the applicant shall be reasonably approved by the Public Works department.

Proper planning is essential for a coordinated and comprehensive drainage system. A basin-wide approach is required for all work within the Town. New developments are required to conform to the master plans for basins in which the developments are located. If a development is located within a basin that has not previously been analyzed, the Town may require a master drainage plan prior to final development plan approval. Check with Town personnel for availability of existing master plans.

2. **General Requirements.** The following shall be shown, at a minimum:
- The rate of runoff from the developed area will not exceed the historic rate of runoff based on a ten (10) year and a one-hundred (100) year rainfall event,
 - The first ½ inch of runoff will be retained on site in retention basins or underground structures and allowed to percolate into the ground
 - All storm drainage plans must evaluate the effects of both initial and major storms on the storm drainage system. Consideration should also be given to nuisance runoff from irrigation, snowmelt, etc. The following table lists the initial and major storm frequencies for design and evaluation:

DESIGN STORM FREQUENCIES

Land Uses or Type of Facility	Initial Storm	Major Storm
----------------------------------	------------------	----------------

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Residential, Business, and Industrial	10-year (1)	100-year
Culverts	25-year	100-year
Open Channels, Bridges	See USDCM	100-year (2)
Detention/Retention Ponds	10-year (3)	100-year (3)

(1) Frequency for sizing of storm sewers (most cases).

(2) Freeboard as approved by Town on case by case basis subject to requirements or USDCM.

(3) Detention ponds shall be evaluated and designed for multiple discharges (10- year and 100- year storms).

3. **Preliminary Drainage Report.** A preliminary drainage report is required with all preliminary plan submittals for major developments. The purpose of a preliminary report is to define, on a conceptual level, the nature of the proposed development or project, describe all existing conditions, and propose facilities needed to conform to the requirements.

All items described below shall be included in the drainage report, at a minimum.

- (a) General location and description of property
- Vicinity Map: Town, County, State Highway and local streets within and adjacent to the site
 - Township, range, section, 1/4 section, subdivision, lot and block
 - Names, locations, and descriptions of surrounding developments
 - Project description
 - Area in acres

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- vi. Ground cover and vegetation
- vii. Existing drainageways and storm drains
- viii. Existing major irrigation facilities such as ditches and canals
- ix. Existing creeks and streams within 500' of property
- x. Proposed land use

(b) Basins descriptions

- i. Description of existing major drainageway planning studies such as flood hazard delineation report, major drainageway planning reports, and flood insurance rate maps (FIRMs).
- ii. Major basin drainage characteristics, existing and planned land uses within the basin, as defined by the Planning Department

(c) Drainage facility design

- i. Discussion of existing drainage patterns
- ii. Discussion of offsite runoff considerations
- iii. Discussion of anticipated and proposed drainage patterns
- iv. Discussion of design of drainage facilities, maintenance and access aspects of the design
- v. Discussion of design controls of the flow on downstream properties
- vi. Discussions of drainage problems encountered or anticipated and solutions at specific design points
- vii. Discussion of the drainage impact of site constraints such as streets, utilities, transitways, existing structures, and development or site plan
- viii. Discussion of public walkways, parks, etc. located in flood areas or greenbelts.
- ix. Discussion of easements and tracts for drainage purposes, including the conditions and limitations for use, or opportunity for use by the public

(d) Conclusion. Discuss the effectiveness of drainage design to control storm runoff

(e) References. Reference all criteria, and supporting technical documentation used in the report or that supports the technical methodologies used in the report.

4. **Final drainage report.** Conditions from preliminary report approvals must be addressed by the applicant for consideration of a complete final report. The final drainage report serves to define and expand the concepts shown in the preliminary report and is sufficient to assure conformance to these requirements. The final report shall be submitted prior to or with the Final Plan and must be reviewed and

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

approved by Public Works prior to approval of the final development plan by the Board of Trustees.

The report shall include a cover letter presenting the design for review prepared or supervised by a Professional Engineer licensed in the State of Colorado. The report shall contain a certification sheet as follows:

"This report for the drainage design of (Name of Development) was prepared by me (or under my direct supervision) in accordance with the Municipal Code of the Town of Buena Vista, and was designed to comply with the provisions thereof. I understand that the Town of Buena Vista does not and will not assume liability for drainage facilities design."

- a) Hydrologic Requirements. The following shall be included in the final drainage report, at a minimum.
 - i. Identify design rainfall
 - ii. Identify runoff calculation method
 - iii. Identify detention discharge and storage calculation method
 - iv. Identify design storm recurrence intervals
 - v. Discussion and justification of other criteria or calculation methods used
 - vi. Discussion of detention or retention storage and outlet design, with calculations showing that:
 - The rate of runoff from the developed area will not exceed the historic rate of runoff based on a ten (10) year and a one-hundred (100) year rainfall event,
 - The first ½ inch of runoff will be retained on site in retention basins or underground structures and allowed to percolate into the ground
- b) Hydrologic Computations – include the following, if applicable:
 - i. Land use assumptions regarding adjacent properties
 - ii. Initial and major storm runoff at specific design points such as inlets, outlets, channels, ditches, etc.
 - iii. Historic and fully developed runoff computations at specific design points
 - iv. Hydrographs at critical design points
 - v. Time of concentration and runoff coefficients for each basin.
 - vi. Culvert types and capacities
 - vii. Storm sewer capacity, including energy grade line (EGL) and hydraulic grade line (HGL) elevations

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- viii. Storm inlet capacity including inlet control rating at connection to storm sewer
- ix. Open channel design
- x. Check and/or channel drop design
- xi. Detention/retention pond storage-elevation-outflow information, along with detailed routing calculations for both major and minor storm events.
- xii. Downstream/outfall system compatibility and impact on downstream properties.
- xiii. Include any input and output listings and electronic copy on CD of computer models used.

ARTICLE V VESTED PROPERTY RIGHTS AND DEVELOPMENT AGREEMENTS

Sec. 17-41 Vested Property Rights.

- (a) **Purpose.** The purpose of this section is to provide procedures necessary to implement the provisions of Article 68 of Title 24 of the Colorado Revised Statutes, as amended, and to exercise local municipal control over the creation and enforcement of vested property rights to the maximum extent allowed by law. In the event Article 68 of Title 24 of the Colorado Revised Statutes should be repealed, or declared invalid or unconstitutional by a court of competent jurisdiction, then this section shall be deemed to be repealed and the provisions hereof shall no longer be effective.
- (b) **Vested property right—definition.** *Vested property right* means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.
- (c) **Site specific development plan—definition.** *Site specific development plan* means a plan which has obtained final development approval under the standards and procedures as contained in this code, inclusive of public notice and public hearing, and which describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, and includes all terms and conditions of approval. A sketch plan, preliminary plan, variance, license, zoning, map, exemption, easement, permit, certificate or appropriateness or waiver shall not constitute a site specific development plan, but may be incorporated into and become part of a site specific development plan.
- (d) **Designation of site specific development plan for vesting of property rights.** The following site specific development plans will create and cause property rights to vest as provided for in this section:

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

1. Minor development final plan.
2. Intermediate development final plan.
3. Major development final plan.
4. Planned Unit Development (PUD) final plan.
5. A written development agreement providing for vested rights.
6. Any development approval not specified in this section which is designated as a vested site specific development plan after a public hearing thereon by the board of trustees.

(e) **Conditional approval of site specific development plan.** The board of trustees may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Failure to abide by such terms and conditions shall result in the forfeiture of any vested property rights.

(f) **Limitations – exceptions.** Nothing in this section is intended or shall create a vested property right beyond such right as defined in Article 68 of Title 24 of the Colorado Revised Statutes. Once established in conformity with this section, however, a vested property right shall preclude any zoning or land use action by the town, inclusive of a citizen-initiated measure, which would alter, impair, prevent, diminish or impose a moratorium on the development or use of property as authorized by an approved site specific development plan, except:

1. With the consent of the development applicant; or
2. Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the subject property which could not reasonably have been discovered at the time of the development or vested rights approval, and which is left uncorrected would pose a serious threat to public health, safety and welfare; or
3. To the extent compensation is paid as provided for in Article 68 of Title 24 of the Colorado Revised Statutes.

Notwithstanding the foregoing, the establishment of a vested property right shall not preclude the application to any land use or development or ordinances or regulations which are general in nature and applicable to all property subject to this code, including, but not limited to, fee assessments, water and sewer tap rationing, and building, fire, plumbing and mechanical codes. Moreover, the vesting of a site specific development plan shall not exempt such plan from inspections, reviews or approvals deemed necessary by the Town to ensure compliance with the terms and conditions of the original development plan approval.

(g) **Public hearing and notice required.** The approval of a site specific development plan creating vested property rights shall require a public hearing preceded by public notice. Such hearing and notice may be combined with any other public hearing and notice otherwise required under this code. If not combined with another notice, notice of a public hearing on the vesting of a property right shall be given by publication in a newspaper of

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

general circulation in the Town not less than seven (7) days in advance of the hearing.

(h) **Effective date of approval—duration of vested property rights.**

1. A site specific development plan and vested property right shall only be deemed established upon the final action of the reviewing body or official designated under this code with authority to grant final development approvals. The effective date of a site specific development plan and vested property right shall be the date on which a final plat, final development plan, development agreement or other applicable document memorializing a development approval and vested right as specified in this section has been duly executed. A site specific development plan which has received final approval subject to conditions, to be satisfactorily performed at some future date shall result in a vested property right unless there is a failure to abide by such conditions, in which event the vested property right shall be forfeited. In the event of amendments to a site specific development plan, the effective vesting date of any amendment shall be the date of the approval of the original plan unless otherwise specifically provided in the action or document approving and memorializing the amendment.
2. A site specific development plan that has been vested as provided under this section shall remain vested for three (3) years from the plan's effective date. A longer initial vesting period, or an extension in the vesting period, may be granted upon a finding that a longer or extended vesting period will serve the public interest and welfare in view of all pertinent circumstances, including, but not limited to, the size and phasing of any given development, economic cycles, or market conditions.

(i) **Document language.** Each map, plat or other document constituting or memorializing a vested site specific development plan shall contain the following language: "Approval of this plan shall created a vested property right pursuant to Article 68 of Title 24 C.R.S., as amended, subject to the terms and limitations as contained in the Buena Vista Municipal Code." A failure to include this statement shall not invalidate the creation of the vested property right.

(j) **Published notice of approved site specific development plan and vested property right.** As soon as reasonably practicable following final approval of a vested site specific development plan, but in no event later than fourteen (14) days following final approval, notice of same shall be published in a newspaper of general circulation in the town generally advising the public of the approval and identifying the property subject thereto. Such notice shall be substantially in the following form:

Notice is hereby given to the general public of the approval of a site specific development plan and the creation of a vested property right pursuant to Title 24, Article 68, Colorado Revised Statutes and the Buena Vista Municipal Code pertaining to the following-described project and/or property: (Description of property)

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

The property shall be generally described in the notice and identify the ordinance or resolution granting such approval. The costs of publishing such notice shall be borne by the applicant.

- (k) **Referendum and judicial review.** A vested site specific development plan shall be subject to all rights of referendum and judicial review, except that the thirty (30) day period in which to exercise such rights shall not begin to run until the publication of the notice of approval as provided for in this section.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-42 Development Agreements.

(a) **Development Agreements.** The Town may enter into development agreements. A development agreement may be a site specific development plan as provided in Sec. 17-41 of this article if it is intended to create or memorialize vested property rights.

1. **General.** A development agreement shall constitute a binding contract between a developer and the Town and shall contain those terms and conditions agreed to by the parties and those required by this Sec. 17-42. The town attorney or his designee is authorized to negotiate development agreements on behalf of the municipality.
2. **Extension of Vested Property Rights.** A development agreement may provide, among other things, for the vesting of a property right for a period of time exceeding three years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles and market conditions.
3. **Third Party Rights.** Except as otherwise expressly provided in the Development Agreement, the Development Agreement shall create no rights enforceable by any party who/which is not a party to the Development Agreement.
4. **Limitation on Liability.** The development agreement shall contain a clause that provides that any breach of the development agreement by the Town shall give rise only to equitable relief under state law and shall not give rise to any liability for damages or violations of the fifth and fourteenth amendments of the U.S. Constitution or similar state constitutional provisions.
5. **Developer's Compliance.** The Development Agreement shall include a clause that the Town's duties under the Agreement are expressly conditioned upon the developer's substantial compliance with each and every term, condition, provision, and covenant of the Agreement, all applicable federal, state and local laws and regulations, and its obligations under the Subdivision Improvement Agreement.
6. **Adoption.** Development agreements designed and intended as a site specific development plan to vest property rights shall be approved and adopted by the Board of Trustees pursuant to the noticing requirements and procedures set forth in Sec. 17-41 of this article. Development agreements not intended or designed to vest property rights shall be approved by the board of trustees by motion or resolution. All development agreements shall be recorded in the office of the Chaffee County Clerk and Recorder along with a corresponding final plat. The cost

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

of noticing and recording a development agreement shall be borne by the developer.

7. **Incorporation as Matter of Law.** All clauses, covenants, and provisos required by these regulations to be included in a Development Agreement shall be incorporated into the Development Agreement as a matter of law without respect to the intent of the parties.

Sec. 17-43 to 17-45 (Reserved)

ARTICLE VI ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

Sec. 17-46 Improvements and Development Improvements Agreement.

- (a) **Completion of Improvements.** All applicants granted development approval shall timely, fully and satisfactorily construct or install all public and other required development improvements and infrastructure as called for in this chapter and or as may have been specified by the Board of Trustees as a condition of final development approval. All improvements and infrastructure intended for public use shall be dedicated and/or transferred to the Town free of all liens and encumbrances. A failure by an applicant to complete, dedicate and/or transfer development improvements and infrastructure as required herein may result in the suspension or withdrawal of approval and authorization for the development.
- (b) **Development Improvements Agreement and Guarantee.**
 - 1. **Agreement.** No final development plan shall be executed by the Town and no building permits shall be processed or issued for any lot or property within a development involving or requiring the installation of public or other development improvements absent the preparation and execution of a written development improvements agreement which shall be recorded simultaneously with the final development plan. Such agreement shall, at a minimum, set forth construction specifications for required development improvements, a construction and completion schedule, provide for security and guarantees concerning the timely and satisfactory completion of the improvements, and identify the terms and conditions for the acceptance of the improvements by the Town. The agreement shall also include a requirement that all improvements be maintained by and/or at the cost of the developer for a period of one (1) year following preliminary acceptance, and that the developer will warrant all improvements to be free from defects (inclusive of materials, design and construction) for a period of two (2) years following preliminary acceptance.
 - 2. **Covenants to Run.** A development improvements agreement shall run with the land and bind all successors, heirs, and assignees of the developer.
 - 3. **Security.** All development improvements agreements shall include a requirement for the posting of adequate financial security to insure the timely, complete and

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

satisfactory construction or installation of all development improvements and infrastructure as called for in the agreement. Security shall be in an amount not less than 115% of the estimated cost of completion of all improvements or infrastructure and may be provided by letter of credit, cash escrow, performance bond, or other financial instrument as approved by the Town within its sole discretion.

- (a) **Letter of Credit.** If an applicant posts a letter of credit as security, it shall (1) be irrevocable; (2) be for a term, inclusive of renewals, sufficient to cover the completion, maintenance and warranty periods as required in Section 17-46(b)(1); and (3) require only that the Town present the letter of credit with a demand and an affidavit signed by the Town Administrator attesting to the Town's right to draw funds under the letter of credit.
- (b) **Cash Escrow.** If an applicant posts a cash escrow, the escrow instructions shall provide: (1) that the subdivider will have no right to a return of any of the funds except as provided in Section 17-46(3)(c); and (2) that the escrow agent shall have a legal duty to deliver the funds to the Town whenever the Town Administrator presents an affidavit to the agent attesting to the Town's right to receive funds, whether or not the subdivider protests that right.
- (c) **Reduction of Security.** Upon preliminary acceptance of a development improvement or infrastructure, Town shall release all but fifteen percent (15%) of the amount of financial security posted to secure the successful and timely completion of same, so long as the developer is not in default of any provision of the development improvements agreement. The residual 15% retained by the Town shall act as security for the developer's guarantee that the development improvements and infrastructure remain free of defect during the applicable warranty period. The developer may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial security to that security as originally posted with and/or retained by the Town.
- (c) **Temporary Improvement.** The applicant shall build and pay for all costs of temporary improvements required by the Board of Trustees and shall maintain those temporary improvements for the period specified by the Board of Trustees. Prior to construction of any temporary facility or improvement, the developer shall file with the Town a separate Development Improvement Agreement and a letter of credit or cash escrow in an

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

appropriate amount for temporary facilities, which agreement and credit or escrow shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

- (d) **Costs of Improvements.** All required improvements shall be made by the developer, at its expense, without reimbursement by the Town or any improvement district except that, as may be allowed under state law, the developer may form or cause to be formed a special district or districts to construct and finance the construction of required public improvements excluding lot improvements on individual lots. If the developer does form or cause to be formed a special district for the purposes identified in this section, the Town shall not release the developer from its obligations under any Development Improvement Agreement nor shall the Town release any security, in whole or in part, until the special district has sold bonds or otherwise certifies to the Town that it has an absolute right to raise revenues sufficient to construct, maintain, and warrant the quality of the required public improvements.
- (e) **Governmental Units.** Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Article.
- (f) **Failure to Complete Improvement.** For developments for which no Development Improvement Agreement has been executed and no security has been posted, if the improvements are not completed within the period specified in the development improvements agreement, the sketch plat or preliminary plat approval shall be deemed to have expired. In those cases where a Development Improvement Agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the Town may then: (i) declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default; (ii) suspend final development plan approval until the improvements are completed and record a document to that effect for the purpose of public notice; (iii) obtain funds under the security and complete improvements itself or through a third party; (iv) assign its right to receive funds under the security to any third party, including a subsequent owner of the development for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the development; (v) exercise any other rights available under the law.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- (g) **Acceptance of Dedication Offers.** The acceptance of streets, parks, easements or other public areas dedicated to the Town other than by appropriate dedication language on a final subdivision plat shall be by resolution adopted by the Board of Trustees.
- (h) **"As-Built" Plans** The following items are required to be completed for acceptance of facilities by the Town:
 - 1. As-builts shall include detailed and accurate information on all improvements completed as part of a project. Locations, dimensions, elevations, types of material, and all other information needed to provide a comprehensive and complete representation of the final project shall be included. Rights of way and easement lines shall also be shown.
 - 2. As-builts shall be submitted on completion of all work within a phase of the development, and the final as-built plans shall be received before final acceptance of that phase.
 - 3. Final "As-Built" drawings shall be submitted before final acceptance of improvements. They shall be stamped "As-Builts" and be signed as such by a Registered Professional Engineer.
 - 4. Final as-builts will be submitted as AutoCAD or DXF drawings, two sets of prints, and reproducible Mylar and will become property of the Town of Buena Vista and a part of permanent Town records.

Sec. 17-47 Inspection of Improvements.

- (a) **General Procedure and Costs.** The Board of Trustees shall provide for inspection of required improvements during construction to ensure their satisfactory completion. The applicant shall pay to the Town the reasonable cost incurred by the Town in conducting such inspections. These costs shall be due and payable upon demand of the Town and no building permits or certificates of occupancy shall be issued until all costs are paid. If the Town Engineer finds upon inspection that any required improvement has not been constructed in accordance with the Town's construction standards and specifications, the applicant shall be responsible for correcting or properly completing the improvement.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

(b) **Release or Reduction of Security.**

1. **Certificate of Satisfactory Completion.** The Town will not accept any improvement(s) nor release or reduce the amount of any security posted by the developer until the Town Engineer has certified that the required improvement(s) has been satisfactorily completed and the developer's engineer or surveyor has certified to the Town Engineer, through the submission of detailed "as-built" drawings and survey plat illustrating locations, dimensions, materials and other information required by the Town Engineer, that the grade, siting, alignment and all other aspects of the improvement are in accordance with construction plans for the development. Additionally, the developer must affirm by delivery of an opinion of title or other documentation deemed acceptable by Town that the improvements have been completed, are ready for acceptance by the Town, and are free and clear of any and all liens and encumbrances.
2. **Reduction of Security.** Upon preliminary or final acceptance of any improvement or infrastructure, the Town shall reduce or release, as appropriate, the security posted to insure the improvement's or infrastructure's successful construction or installation; except that at no time shall the level of security be reduced below that amount necessary to insure the full and timely completion of improvements and infrastructure not yet completed and accepted, or below fifteen percent (15%) of the amount originally posted until such time as the applicable maintenance and warranty period(s) for the improvement or infrastructure has expired.

Sec. 17-48 (Reserved)

Sec. 17-49 Maintenance of Improvements.

A developer shall maintain all development improvements and infrastructure, until final acceptance of the improvements for maintenance by Town. Removal of snow from streets shall be the responsibility of the Town following preliminary acceptance. Prior to final acceptance, Town, upon reasonable notice to the developer, may undertake emergency repairs to any improvement or infrastructure as deemed necessary by the Town, and charge the reasonable costs thereof to the developer. Town may make demand and draw upon security posted by the developer for any improvement or infrastructure in order to recover its costs in maintaining or repairing same. The applicant shall be responsible for requesting a final inspection of all public improvements at the end of the two-year warranty period. When the Town finds that the public improvements meet Town requirements, they shall by way of a written letter to the applicant acknowledge acceptance of the public improvements.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-50 Deferral of Waiver of Requirement Improvements.

- (a) The Town may defer or waive at the time of final development plan approval, subject to appropriate conditions, the provision of any or all development improvements as the Town may deem necessary due to inadequate or non-existent connecting or supporting facilities or systems, or for other just cause. Decisions to waive or defer otherwise required development improvements may only be made by the Board of Trustees on the record at a public hearing or meeting, and must be supported by expressed findings and reasons.
- (b) Whenever it is deemed necessary to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the developer shall pay its estimated proportionate share of the costs of the future improvements to the Town prior to the execution of the final development plan, or execute a separate development improvements agreement secured by a letter of credit or other financial instrument acceptable to the Town guaranteeing completion of the deferred improvements upon demand of the Town.

Sec. 17-51 Issuance of Certificates of Occupancy.

No certificate of occupancy shall be processed or issued by the County for any lot building within a development prior to the complete and satisfactory installation of all development improvements or infrastructure required to serve such or building, and the payment of any and all development fees then due to Town by the developer.

Sec. 17-52 Consumer Protection Legislation and Conflicts of Interest Statutes.

- (a) No building permit or certificate of occupancy shall be granted or issued if a developer or its authorized agent has violated any federal, state or local law pertaining to (i) consumer protection; or (ii) real estate land sales, promotions, or practices; or (iii) any applicable conflicts-of-interest legislation with respect to the lot or parcel of land which is the subject of the permit or certificate until a court of competent jurisdiction so orders.
- (b) With respect to any lot or parcel of land described in the immediately preceding section, if a building permit or certificate of occupancy has been granted or issued, it may be revoked by the Town until a court of competent jurisdiction orders otherwise, provided that in no event shall the rights of intervening innocent third parties in possession of a certificate of occupancy be prejudiced by any such revocation.
- (c) Any violation of a federal, state, or local consumer protection law, including, but not limited to: Postal Reorganization Act of 1970; the Federal Trade Commission Act of 1970; the

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Uniform Commercial Credit Code; state "Blue Sky" laws; state development disclosure acts, or any conflicts of interest statute, law, or ordinance shall be deemed a violation of these regulations and subject to all of the penalties and proceedings as set forth in Section 1.13.

Sec. 17-53 to 17-55 (Reserved)

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

ARTICLE VII REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS, AND DESIGN

Sec. 17-56 General Improvements.

- (a) **Conformance to Applicable Rules and Regulations.** In addition to the requirements established in these regulations, all development plans shall comply with the following laws, rules, and regulations.
1. All applicable statutory provisions.
 2. The Town Zoning Code, building and housing codes, the town planting guide and all other applicable rules and regulations of the town and/or other governing jurisdiction.
 3. The Town Comprehensive Plan, including all streets, drainage systems, and parks shown thereon.
 4. The special requirements of these regulations and any rules of the Health Department and/or appropriate state or local agencies.
 5. The rules of the State Highway Department if the development or any lot contained therein abuts a state highway.
 6. The standards and regulations adopted by all boards, commissions, agencies, and officials of the Town.
 7. Plat approval may be withheld if a development is not in conformity with the above laws, regulations, guidelines, and policies as well as the purposes of these regulations established in Sec. 17-3 of these regulations.
- (b) **Adequate Public Facilities.** No final development plan shall be approved unless the Board of Trustees determines that public facilities will be adequate to support and service the area of the proposed development. The applicant shall submit sufficient information and data on the proposed development to demonstrate the expected impact on and use of public facilities by possible uses of said development. Public facilities and services to be examined for adequacy will include roads and public transportation facilities, drainage, and water service.
1. Periodically the Board of Trustees will establish by resolution, after public

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

hearing, guidelines for the determination of the adequacy of public facilities and services. To provide the basis for the guidelines, the Planning Commission must prepare an analysis of current growth and the amount of additional growth that can be accommodated by future public facilities and services. The Planning Commission must also recommend any changes in development plan approval criteria it finds appropriate in the light of its experience in administering these regulations.

2. The applicant for a final development plan must, at the request of the Board of Trustees, submit sufficient information and data on the proposed development to demonstrate the expected impact on and use of public facilities and services by possible uses of said development.
3. Proposed public improvements shall conform to and be properly related to the Town's Comprehensive Plan and all applicable capital improvements plans.
4. All habitable buildings and buildable lots shall be connected to a public water system capable of providing water for health and emergency purposes, including adequate fire protection.
5. All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment.
6. Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. The Board of Trustees may require the use of control methods such as retention or detention, and/or the construction of drainage improvements to mitigate the impacts of the proposed developments.
7. Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation; shall be properly related to the Town's Comprehensive Plan; and shall be appropriate for the particular traffic characteristics of each proposed development.
8. All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, waterlines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The Board of Trustees may require the applicant for a development to extend offsite improvements or provide easements to reach the development or oversize required public facilities to serve anticipated future development as a condition of plat approval.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- (c) **Self-Imposed Restrictions.** If the owner places restrictions on any of the land contained in the development greater than those required by the Zoning Ordinance or these regulations, such restrictions or reference to those restrictions may be required to be indicated on the development plan, or the Board of Trustees may require that restrictive covenants be recorded with the Chaffee County Clerk and Recorder in a form to be approved by the Town Attorney. When allowed by law, the developer shall grant to the local government the right to enforce the restrictive covenants.
- (d) **Plats Straddling Municipal Boundaries.** Whenever access to the development is required across land in another jurisdiction, the Board of Trustees may request assurance from the Town Attorney that access is legally established, and from the Town Engineer that the access road is adequately improved, or that a guarantee has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.
- (e) **Character of the Land.** Land that the Board of Trustees finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features that will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the development and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Board of Trustees upon recommendation of the Town Engineer, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve any danger to public health, safety, and welfare.
- (f) **Development Name.** The proposed name of the development shall not duplicate, or too closely approximate phonetically, the name of any other development in the area covered by these regulations. The Board of Trustees shall have final authority to designate the name of the development, which shall be determined at sketch plat approval.

Sec. 17-57 Design Standards.

Variances from any of the above design standards shall be reviewed by the Planning Commission, considered and decided upon by the Board of Trustees. In general, variances shall be considered only when land shape or topography poses a hardship or when a variance shall create an unusually beneficial or aesthetic situation.

- (a) **Land.** The following standards shall govern the division and use of land within all proposed developments. Such division and use of land shall be consistent with the Zoning Ordinance and the current Town Comprehensive Plan.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

1. **Blocks** - The length of blocks hereafter established shall not exceed one thousand five hundred (1,500) feet or be less than four hundred (400) feet. The width of a block shall be sufficient to permit the depth of two (2) lots between streets. These length and depth requirements may be modified by the Board of Trustees when land ownership, topography or physical shape of the property dictate a reasonable variance from these standards, and when a PUD is proposed and the modification is in compliance with the purposes set forth in Sec. 17-3.
2. **Lots** - Lot size shall conform with the Zoning Ordinance as set forth in the Dimensional Requirements of Sec. 16-245 for each zoning use. These requirements may be modified by the Board of Trustees when a PUD is proposed and the modification is in compliance with the purposes set forth in Sec. 17-3. Residential lots shall not have driveway access from arterial or collector streets unless no other alternative exists. Lots with double frontage shall be avoided except where essential to provide separation from major arterials or because of the slope. Side lot lines shall be substantially at right angle or radial to street lines when feasible.
3. **Easements** - If it is necessary or desirable to locate utilities, drainage, pedestrian ways or other public facilities in other locations than street rights-of-way, easements shall be created for such purposes. Such easements shall be located on rear or side lot lines. Use of an easement for principal access to a lot is strongly discouraged and shall be used only after approval by the Board of Trustees.
4. **Open Space and Park/Pedestrian/Bikeway Dedication Requirement** - Developers of land for residential use shall, at the option of the Board of Trustees, either dedicate land for park/pedestrian/bikeway use, or pay cash in lieu of land dedication as a park and pedestrian/bikeway development fee, or provide a combination of land dedication and fee payment. Lands proposed to be dedicated may be accepted by the Town if these lands help implement the Town Recreation or Trails Master Plan, or if they preserve valuable wildlife habitat, wetlands or natural features. If the Town elects to have the fee paid, it will use these funds to install facilities per the Town Trails and/or Recreation Master Plan. The suitability of land to be dedicated will be determined by the Board of Trustees. Factors used in evaluating suitability will include size and shape, topography, geology, flora, fauna, access, location and reasonable

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

adaptability for use as a pocket park, neighborhood or community park and playground, and access to adjacent parks or bikeways.

5. **Trail(s) Land Dedication.** Developers of land containing usable connections for a proposed or existing public pedestrian/bikeway trail as identified in the trails master plan, shall be asked to voluntarily dedicate to the Town such land or easement(s) as would connect or complete the trail. Land voluntarily dedicated for trail development shall be credited against any land dedication requirement otherwise imposed upon the developer by regulations in this article.

6. **Method and amount of land dedication and/or fee payment.**

- (a) **Land Dedication Requirement.** The developer shall convey to the Town by means of a final plat dedication, or shall deed land to be used for public recreation locations designated by the Board of Trustees in the following manner.

- (i) The developer shall dedicate to the Town land in the ratio of 7.5 acres for every one thousand residents of the proposed development or development, or 1 acre per 100,000 square feet of commercial and/or industrial space.

- (ii) For the purpose of the foregoing requirements, the number of residents attributable to each development shall be:

Single-family dwellings, 2.1 residents per unit

Two-family dwellings, 3.0 residents per unit

Multi-family dwellings, 2.5 residents per unit

For planned unit developer (PUD's) or where the number of units is known because of a proposed master plan, the number of units proposed shall govern.

- (b) **Fee Payment in Lieu of Land Dedication.** If the Board of Trustees elects to have a fee paid in lieu of land dedication, either in whole or in part, the applicant shall pay to the Town prior to the recording of the final plat a fee the amount of which is established in accordance with the following methodology:

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

The Board of Trustees upon recommendations from the Recreation Advisory Board and the Planning and Zoning Commission shall establish the fee that may be accepted in lieu of land dedication each year as of January 31st. The fee shall be based on the average cost of vacant undeveloped residential land on one (1) to ten (10) acre parcels within the corporate limits of the Town provided, however, said fee shall increase five percent (5%) from the preceding year if a new fee has not been established by the Board of Trustees by January 31st of the year or the Board of Trustees finds that the fee structure requires further amendment due to land value increases or decreases.

- (b) **Streets.** The following standards shall govern the construction of streets in developments. Furthermore, all streets shall conform with existing street patterns and with the current comprehensive plan. All streets proposed for dedication to the public shall be laid out, graded and paved from curb to curb. Asphalt, drainage control, sidewalks, and buffer shall be installed on all streets except within Minor Developments.

In cases where a previously existing street that has not been brought up to Town specifications is located within a development, such street shall be improved to meet the Town requirements herein. For developments located adjacent to any existing street right-of-way, the developer shall provide at least the portion of adjacency of such street with improvements as required to bring such street up to Town specifications.

AASHTO Policy on Geometric Design of Highways and Streets (Green Book) shall be referenced for any construction policies not included within.

1. **Classification** - Streets shall be classified as arterials, collectors or local streets according to their location, function and traffic volumes. Streets shall be considered collectors or local streets unless anticipated average daily traffic shall exceed two thousand (2,000) vehicles per day, in which case the streets shall be considered arterials. *Collector* streets generally connect to arterials or other collectors, and residential driveways are normally not found on collectors. *Local* streets generally serve neighborhood traffic over very short distances and connect to higher use

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

streets such as *collectors*. The primary purpose of a *local* street is to provide vehicular access to adjacent land.

2. **Grades** - No street grade shall be less than five-tenths percent (0.5%). Maximum grade permitted shall be:

- Local Streets - eight percent (8%)
- Collector Streets - six percent (6%)
- Arterial Streets - five percent (5%)
- Intersections - no grade exceeding four percent (4%) permitted within two hundred (200) feet of the centerline
- Crown - all streets shall be designed with a two percent (2%) crown, except for locations where the pavement surface must be warped for drainage or intersections, in which case the Town must approve the grade and design.

3. **Road Widths** - All roads shall have a minimum driving lane width of nine feet (9), and maximum width of twelve feet (12). Parking lanes shall be a minimum of eight feet (8) wide, with twenty feet (20) length allotted per vehicle. On-street bicycle lanes, if proposed, shall be a minimum of five feet (5) wide, and shall be striped per MUTCD, and painted with an approved bicyclist stencil every five hundred feet (500), at a minimum.

4. **Horizontal Curves** - Where a deflection angle of more than five degrees occurs in the alignment of a street, a horizontal curve with the following minimum radii shall be included in the design of the street.

<u>Street Classification</u>	<u>Minimum Radius</u>
Local	100'
Collector	200'
Arterial	400'

5. **Vertical Curves** - Where an algebraic change of grade is introduced into the profile of a street, the following minimum design criteria shall be adhered to:

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Street	Min.Sight	Min. Vertical
<u>Classification</u>	<u>Distance</u>	<u>Curve Length</u>
Local	150'	100'
Collector	250'	100'
Arterial	400'	200'

At the approval by the Board of Trustees, minimum vertical curve lengths can be modified to minimize excessive flat lengths along a crest or sag of a curve. There shall be a minimum of two hundred feet (200') between changes in grade designed without a vertical curve.

In situations where the geometric design criteria as set out in the above cannot be met for the normally applicable design speed on a given type of street (local, arterial, etc.), then the design speed may be lowered to a design speed suitable for the type terrain and the anticipated traffic volumes. However, all efforts shall be made to ensure that a "balanced" street network evolves by providing enough streets with 25 mph or higher design speeds to counteract the effect of lowering the speed limits on some streets thereby restricting traffic flow capacities.

- 6. Intersections** - No more than two (2) streets shall intersect at one (1) point. Streets shall be designed to intersect as nearly as possible at right angles, and under no circumstances shall a street be designed to intersect another street at an angle of less than sixty degrees (60). Street jogs at intersections shall have a centerline offset of not less than one hundred twenty (120) feet. Curb returns at intersections shall be designed within a minimum radius of twenty (20) feet measured along the face of the curb.

Intersections spacing on all streets shall follow the following table, at a minimum:

<u>Speed limit(MPH)</u>	<u>Intersection Spacing(feet)</u>
-------------------------	-----------------------------------

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

15-30	100
35-45	200
45-50	250

7. **Crosspans** - Crosspans of a minimum width of five (5) feet, six (6) inches in depth, and reinforced with 6x6-10/10 wire mesh reinforcement shall be included to carry surface drainage across intersections. Whenever possible, crosspans shall only be constructed at intersection corners.
8. **Alleys** - Alleys are permitted in developments depending on design layout, at the discretion of the Board of Trustees. In some cases, alleys may be required by the Board of Trustees. Alley design shall provide safe access, a minimum right-of-way width of twenty-five (25) feet, and be improved by the developer with a six (6) inch minimum depth gravel surface. All alley rights-of-way shall be dedicated to the Town.
9. **Cul-de-sacs and Hammerheads**- Whenever a street is designed to terminate in a dead end, a cul-de-sac or hammerhead shall be included at the terminal end of the street. Such street shall not be longer than seven hundred fifty (750) feet measured from the centerline of the intersecting street. The cul-de-sac shall have a minimum right-of-way of one hundred (100) in diameter and a paved turnaround with a minimum outside diameter of eighty (80) feet. There shall be no parking allowed within cul-de-sacs or hammerheads. Hammerheads and 'Y's shall have 30' asphalt measured from the center of the road to the dead-end. Current adopted IFC codes shall govern and supersede the requirements for cul-de-sacs and hammerheads.
10. **Right-of-way Monuments** - Permanent survey monuments shall be shown at each right-of-way line intersection. The monuments shall be a brass cap with a center point set in concrete. Monument setting will be done in conjunction with paving.
11. **Sidewalks** - Sidewalks are required on all streets except within minor developments. Concrete sidewalks are required on both sides of all streets, and shall be at least five feet (5') wide in both residential and commercial areas. Sidewalks shall be separated from the edge of asphalt, or curb if installed, by a minimum of six (6) feet. In minor residential developments curb, gutter and/or sidewalk shall not be required unless

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

the Board of Trustees determines that one or more of said improvements are necessary to serve the development and/or protect the public health, safety or welfare. In industrial developments the Board of Trustees may require curb, gutter, and sidewalks.

12. Curb and Gutter/Drainage Collection. Depending on drainage plan per Sec. 17-32, *local* streets shall have either:

- (a) Six (6) inch vertical curb with gutter, which together shall be minimum of twenty-four (24) inches, maximum of thirty (30) inches, or
- (b) Rollover/mountable curb with gutter, which together shall be minimum of twenty-four (24) inches, maximum of thirty (30) inches, or
- (c) Open section with a minimum width of six (6) feet of rock-lined drywells, thirty-six (36) inches deep, with rock diameters six (6) inches.
- (d) Vegetated drainage swale, minimum width six (6) feet.

Collector and arterial streets shall have vertical curb and gutter and a minimum six (6) feet buffer between the curb and the sidewalk.

13. Fee Payment in Lieu of Curb, Gutter or Sidewalk. If the Board of Trustees in their sole discretion and based upon the small size of a development and/or the absence of curb, gutter and sidewalks immediately adjacent to the development, elects to have a fee paid in lieu of curb, gutter or sidewalks, the developer shall pay to the Town prior to the recording of the final plat a fee the amount of which is established in accordance with the following methodology:

The Board of Trustees upon recommendations from the Town Engineer and the Planning Commission shall establish the fee that may be accepted in lieu of curb, gutter and sidewalk each year as of January 31st. The fee shall be based on the average costs of installation of curb, gutter and sidewalk within the corporate limits of the Town. The fee shall be assessed as a cost per foot based upon the total linear frontage of all lots within the development adjacent to the publicly dedicated right-of-way including state highway right-of-way and

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Chaffee County right-of-way whether or not the right-of-way has been improved with a paved driving surface.

14. **Buffer** Streets with an open section (drywell) or vegetated swale do not require an additional buffer. Streets with a curb require one of the following between the curb and the sidewalk:

- (a) Topsoil to a depth of six (6) inches as required to sustain healthy vegetative growth or appropriate landscaping, and shall be vegetated following the Town planting guide, or
- (b) Six (6) foot minimum wide rock-lined drywells, minimum eighteen (18) inches deep, with rock diameters four (4) to six (6) inches.
- (c) Commercial areas may install hardscape.

15. **Payment of Tree Fee.**- The developer shall pay a fee into the Town's dedicated tree planting fund equal to the cost, as established by the Board of Trustees, of two (2) trees per lot abutting a street within the development. The Adopt-A-Tree Program sponsored by the Town's Tree Board shall be responsible for planting of the trees, which shall be planted in conformance with the requirements and standards in the Town of Buena Vista Planting Guide. The property owner shall provide a survival guarantee of no less than two (2) years.

16. **Street Signs and Markings**- Street name signs shall be installed at all intersections. At all other locations as deemed necessary by the Board of Trustees, the developer shall install street and traffic control signs, devices, and markings. The number and type of signs, devices, and markings shall conform to the current Manual on Uniform Traffic Control Devices for Streets and Highways and current Town regulations.

17. **Street Lighting**

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- (a) Street lights shall be installed by the developer for every development. For minor residential developments, street lights shall not be required unless the Board of Trustees determines that they are necessary to serve the development and/or protect the public health, safety or welfare. The Board of Trustees may also reduce or eliminate street lighting requirements for very low density developments.
- (b) The type, intensity and distribution of lighting fixtures shall be determined by recommendation of the Planning and Zoning Commission and decision of the Board of Trustees. All fixtures shall be compatible with the character of the neighborhood and Town as a whole.
- (c) All street lighting fixtures shall be full cut-off and designed to direct lighting below a ninety (90) degree horizontal plane extending from the lowest point of the light source.
- (d) All street lighting fixtures shall be designed and aimed so that they do not cast or reflect light on adjoining properties.
- (e) All street lighting fixtures shall be designed and constructed to minimize or eliminate the direct visibility of the light source from adjoining properties.
- (f) All street lighting fixtures shall conform to the following design requirements.

	Street Lights Residential	Street Lights Commercial	Street Lights Industrial
Maximum Initial Horizontal Luminance – Foot candles	2	3	3
Maximum Pole Height – Feet	14'	20'	20'
Maximum Fixtures per Pole	1	2	2
Maximum Lighting Trespass – Foot Candles	0.2	0.3	0.3
Maximum Fixture Wattage Incandescent	75	100	100
Maximum Fixture Wattage HID	70	100	100
Maximum Fixture Wattage Florescent	32	32	32

- (g) The Board of Trustees may vary the lighting fixture requirements set forth in this subsection upon written request incorporated into a development application.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

18. **Water Distribution System.** All proposed developments shall be served by the Town water supply system in accordance with Chapter 13 of this Code, unless otherwise agreed to by the Town.

(a) **Trunk Lines.** When public utilities must be oversized to provide for nearby future development, the developer shall install such trunk lines. The cost of the oversized lines shall be shared by the Town, the Sanitation District or other public utility as agreed to in the Development Improvement Agreement and in accordance with such other affected ordinances.

19. **Sewage Collection System.** All proposed developments shall be served by the Buena Vista Sanitation District sanitary sewer system, unless otherwise agreed to by the Town. All sanitary sewer design plans must be approved by Buena Vista Sanitation District prior to final plat approval.

20. **Private Utilities.** All other utilities such as natural gas, electricity, telephone or cable television shall be constructed underground in accordance with applicable codes. Such utilities shall be constructed within street rights-of-way or within easements dedicated for such use.

21. **Street Cuts.** Prior to the paving of any street in all developments, all stubs necessary to connect all utilities to houses or other establishments shall be constructed. Such connection stubs shall be extended to the right-of-way boundary, and no street cut permits shall be issued within the development following street paving unless extraordinary conditions exist.

Sec. 17-58 Standard Specifications.

- (a) **General.** All construction of streets, curb, gutter, sidewalks, water distribution system, sanitary sewer system, drainage system, landscaping and other public utilities and improvements shall be in accordance with the specifications and Town ordinances where cited, also in accordance with the "Standard Specifications for Road and Bridge Construction" of the State Department of Highways, Division of Highways, hereafter referred to as the "Colorado Standard Specifications."
- (b) **Contents.** Town of Buena Vista Development Standards and Specifications shall be followed. Copies of this document are available from the Public Works Department.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-59 Mobile Home Subdivisions.

Sec. 17-60 (Reserved)

Sec. 17-61 Manufactured Housing.

Nothing in the Chapter shall be construed to prevent the placement of a manufactured home, as defined in Sec. 16-4 of the Buena Vista Municipal Code, anywhere within the Town; provided, however, that such placement shall be made in accordance with and subject to the applicable provisions of the Municipal Code..

Sec. 17-62 to 17-65 (Reserved)

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

ARTICLE VIII LAND READJUSTMENT

Sec. 17-66 Resubdivision of Land.

- (a) **Procedures for Resubdivision.** Whenever a developer desires to resubdivide an already approved final subdivision plat, the developer shall first obtain approval for the resubdivision by the same procedures prescribed for the subdivision of land.
- (b) **Resubdivision includes:**
1. Any proposed change in any platted street alignment or any other public improvement.
 2. Any proposed material change in the boundaries of a subdivision by way of adding or deleting land or lots to the subdivision, or the reconfiguration, division or aggregation of existing platted lots.
 3. Any proposed material change in the amount or boundaries of any land previously dedicated to the Town for public use.
- (c) **Waiver.** Whenever the Board of Trustees in its sole discretion, makes a finding on the record that the purposes of these regulations may be served by permitting resubdivision by the procedure established in this Section 17-66(c), the Board of Trustees may waive the requirement of Section 17-66(a). The Board of Trustees after an applicant for resubdivision that includes an express request for waiver, shall publish notice of the application in a local newspaper of general circulation and shall provide personal notice to property owners in the subdivision. The notice shall include:
1. The name and legal description of the subdivision affected by the application;
 2. The proposed changes in the final subdivision plat;
 3. The place and time at which the application and any accompanying documents may be reviewed by the public;
 4. The place and time at which written comments on the proposed resubdivision may be submitted by the public; and
 5. The place and time of the public meeting at which the Board of Trustees will consider whether to approve, conditionally approve, or disapprove the

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

proposed resubdivision. No sooner than thirty (30) days and no later than forty-five (45) days after notice is published, the Board of Trustees shall consider the application for resubdivision at a public meeting and shall approve, conditionally approve, or disapprove the application.

- (d) **Procedure for Subdivisions When Future Resubdivision is Indicated.** Whenever land is subdivided and the subdivision plat shows one or more lots containing more than one (1) acre of land and there is reason to believe that such lots eventually will be resubdivided, the Board of Trustees may require that the applicant allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of streets may be made a requirement of plat approval.

Sec. 17-67 Plat Vacation.

- (a) **Owner Initiated Plat Vacation.** The owner or owners of lots in any approved subdivision, including the developer, may petition the Board of Trustees to vacate the plat with respect to their properties. The petition shall be filed in triplicate on forms provided by the Board of Trustees and one (1) copy shall be referred to the governing body by the Planning Commission.
1. **Notice and Hearing.** The Board of Trustees shall publish notice in a land newspaper of general circulation and provide personal notice of the petition for vacation to all owners of property within the affected subdivision and shall state in the notice the time and place for a public hearing on the vacation petition. The public hearing shall be no sooner than thirty (30) and no more than forty-five (45) days after the published and personal notice.
 2. **Criteria.** The Board of Trustees shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety, and welfare; but in no event may the Board of Trustees approve a petition for vacation if it will materially injure the rights of any nonconsenting property owner or any public rights in public improvements unless expressly agreed to by the governing body.
 3. **Recordation of Revised Plat.** Upon approval of any petition for vacation, the Board of Trustees shall direct the petitioners to prepare a Revised Final Subdivision Plat in accordance with these regulations. The Revised Final Subdivision Plat may be recorded only after having been signed by the Mayor and the Chair of the Planning Commission.
 4. **Developer Initiated Vacation.** When the developer of the subdivision, or its successor, owns all of the lots in the subdivision, the developer or successor may petition for vacation of the subdivision plat and the petition may be approved, conditionally approved, or disapproved at a regular public meeting of the Board of

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Trustees subject to the criteria in Section 17-67(a)(2). The petition shall be made in triplicate on forms provided by the Board of Trustees at least thirty (30) days prior to a regular Board of Trustees public meeting and the Board of Trustees shall refer one (1) copy of the petition to the governing body. Regardless of the Board of Trustees action on the petition, the developer or its success or will have no right to a refund of any monies, fees, or charges paid to the municipality nor to the return of any property or consideration dedicated or delivered to the municipality except as may have previously been agreed to by the Board of Trustees, the governing body, and the developer.

(b) **Government Initiated Plat Vacation.**

1. **General Conditions.** The Board of Trustees on its motion, may vacate the plat of an approved subdivision when:
 - a. No lots within the approved subdivision have been sold within five (5) years from the date that the plat was signed by the Mayor;
 - b. The developer has breached a Subdivision Improvement Agreement and the Town is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the developer or its successor;
 - c. The plat has been of record for more than five (5) years and the Board of Trustees determines that the further sale of lots within the subdivision presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the developer or its successor.
2. **Procedure.** Upon any motion of the Board of Trustees to vacate the plat of any previously approved subdivision, in whole or in part, the Board of Trustees shall publish notice in a newspaper of general circulation and provide personal notice to all property owners within the subdivision and shall also provide notice to the governing body. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision plat. The public hearing shall be no sooner than thirty (30) and no later than forty-five (45) days from the date of the publication and personal notice. The Board of Trustees shall approve the resolution affecting the vacation only if the criteria in Section 17-67(a)(2) are satisfied.
3. **Recordation.** If the Board of Trustees adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the Clerk and Recorder's office of Chaffee County. If the Board of Trustees adopts a resolution vacating a plat in part, it shall record a copy of the resolution as described above and cause a Revised Final Subdivision Plat to be recorded which shows that portion of the original subdivision plat that has been vacated and that portion that has not been vacated.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-68 to 17-69 (Reserved)

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

ARTICLE IX FEES

Sec. 17-70 Fees -- general.

Fees and charges for the submission, processing and review of land use development and permit applications under this code shall be set forth in a Fee Schedule established by written resolution duly adopted by the Board of Trustees. It is the intention of the Board of Trustees that the fees and charges assessed under this code be reviewed and revised as necessary on an annual basis as part of the town's annual budget process. All fees and charges shall reasonably reflect the actual costs of processing and reviewing lands development and permit application, inclusive of the actual costs incurred by the town for professional planning, engineering, legal and/or other consulting services employed in reviewing and/or approving an application.

Sec. 17-71 Deposits -- development/ PUD review and processing fees.

- (a) Applicants for major development/ PUD approval shall post a deposit toward the payment of review and processing fees at the sketch plan, preliminary plat and final plat submittal stages equal to the following.

	<u>Planning fee/hr.</u>	<u>Engineering Fee/hr.</u>	<u>Legal fee/hr</u>
Sketch plan	10 hrs.	7 hrs.	1 hr.
Preliminary Plat	10 hrs.	10 hrs.	3 hrs.
Final Plat	10 hrs.	5 hrs.	5 hrs.

A surveyor will be retained for final plat review, with a fee for 3 hours required.

- (b) Applicants for intermediate development/ PUD approval shall post a deposit toward the payment of review and processing fees at the time of application equal to the following:

<u>Planning fee/hr.</u>	<u>Engineering Fee/hr.</u>	<u>Legal fee/hr</u>
10 hrs.	10 hrs.	5 hrs.

- (c) Applicants for minor development/ PUD approval shall post a deposit toward the payment of review and processing fees at the time of application equal to the following:

<u>Planning fee/hr.</u>	<u>Engineering Fee/hr.</u>	<u>Legal fee/hr</u>
5 hrs	2.	1hr.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

Sec. 17-72 Deposits--development infrastructure/improvements.

An amount equal to five percent (5% of the total estimated cost of installing public infrastructure/improvements required as part of any development or PUD development approval shall be paid by the applicant at the time of final plat submittal as a deposit toward construction inspection fees. Inspection fees, inclusive of professional planning, engineering, legal and/or other consultant fees, if any, incurred by the town in excess of the five percent (5%) deposit must be paid to the town prior to the town's preliminary acceptance of any such development infrastructure/improvement.

Sec. 17-73 Fees--Administration.

- (a) The town Administrator shall publicly post at Town Hall and make available to interested persons the hourly rates charted to the town for planning, engineering and legal services provided by outside professionals in the processing and review of land use development and permit applications. These rates shall also be disclosed to all land development applicants at all pre-application conferences.
- (b) The town will periodically issue itemized billing statements to applicants setting forth amounts owed, payment due dates, amounts credited, outstanding balances and/or amounts remaining on deposit. All base application fees shall be nonrefundable and must be paid at the time of application. All fees paid on deposit shall be credited against future billings and amounts deposited in excess of fees subsequently incurred shall be timely refunded, without interest, to the applicant.
- (c) All fees or costs for the mailing or publication of notices for public hearings and the recordation of plats and other development or development documents shall be paid by the applicant and be in addition to the application fees.
- (d) For any land use application, the Town shall have the right to charge interest at the rate of 1.5% per month (18% per year) on all outstanding balances not paid within thirty (30) days after the mailing of a statement. If any amount remains unpaid for more than sixty (60) days after the mailing of a statement to the applicant, the Town shall have authority to assess all unpaid amounts, including interest, to the Chaffee County Treasurer who shall proceed to collect the same, together with a ten (10) percent penalty in the same manner as other taxes are collected. The laws of the State of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments. In the case of withdrawal or denial of a land use application, the applicant shall be responsible for all costs actually incurred by the Town in connection with such application regardless of the stage of the review process at which the application is withdrawn or denied.

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

- (e) To secure payment of costs incurred by the Town, the owner of the land proposed for development, (and the applicant if different), shall be required to sign the following agreement which may be included as part of the Land Use Application form required by the Buena Vista Municipal Code:

By signing below, the applicant and property owner hereby agree to reimburse the Town the actual costs to the Town for engineering, planning, surveying, legal services, and all other costs incurred by the Town in connection with the review and approval of the Land Use Application. I/We also agree to reimburse the Town for the cost of making any correction or additions to the master copy of the official town map and for any fees for recording any plats and accompanying documents with the County Clerk and Recorder of Chaffee County, Colorado. I/We agree that interest shall be imposed at the rate of 1.5% per month on all balances not paid within thirty (30) days of the date of mailing the billing statement. In the event the Town pursues collection of any amounts due and unpaid, the Town shall be entitled to collect reasonable attorney fees and all costs associated with collection efforts. In addition to all other remedies allowable by law, I agree that in the event any amounts remain due and unpaid for sixty (60) days, the Town shall have the power and authority to certify such amounts, plus a ten percent (10%) penalty, to Chaffee County to be imposed as a tax lien against the real property subject to the development application.

Applicant

Property Owner

Date Signed: _____

Date Signed: _____

- (f) No land use application shall be accepted by the Town unless the required fees have been paid in full and the application and the agreement have been signed by the property owner and the applicant. In the event that the applicant fails to reimburse the Town for fees and costs as required by this section, the Town Administrator shall have the right, in his or her sole and absolute discretion, to cancel any scheduled hearings or meeting related to the review process and may cease any further review activities until such fees and costs have been fully paid.

Sec. 17-74 Fair Contribution for Public School Sites

- (a) **General.** Growth in residential land development and the construction of new residential dwellings in the Town and Chaffee County necessitates the acquisition of additional public school capital facilities to accommodate increases in student population. Requiring land dedication or conveyance for public school capital facilities or payments in lieu of such dedication or conveyance ("Fair Contribution for Public School Sites") is intended to provide a portion of the

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

resources to meet such demand.

- (b) **Referral.** All applications for residential subdivision, subdivision exemption, and planned unit developments creating residential dwelling units shall be referred to the Buena Vista School District R-31 for review and comment concerning impact of the development on the School District and the adequacy of public school sites and facilities. If a nonresidential land development application may have influence or effect on property owned by or activities of the Buena Vista School District R-31, the information pertaining to that application shall also be referred to the School District for review and comment.
- (c) **Dedication Requirement.**
1. If recommended by the Buena Vista School District R-31, the applicant shall dedicate or convey land for a public school facility to the School District based on .0138 acres per residential dwelling unit. Otherwise, the applicant shall agree to a payment in lieu of land dedication or conveyance in the amount of \$354 per residential dwelling unit. The applicant may elect for such amount to be paid by the owner of a particular lot at the time a residential building permit is obtained. Such requirement shall be noted on the underlying plat and, if required by the Town, a separate covenant.
 2. If the Fair Contribution for Public School Sites includes the dedication or conveyance of land, prior to recording the final plat, the applicant shall provide proof that the dedication has been made to the School District in a manner and on terms satisfactory to the School District and in accordance with the following requirements:
 3. title shall be conveyed by a general warranty deed, free and clear of all liens, encumbrances, and exceptions (except those approved in writing by the School District), including, without limitation, real property taxes, which will be prorated to the date of conveyance or dedication. The land to be conveyed shall be conveyed pursuant to a contract for the sale and purchase of real property containing customary terms for the land which is being conveyed to the School District.
 4. At the time of dedication or conveyance, the applicant shall provide a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property. At the appropriate time, not later than the issuance of the first building permit for the land development project, the person or entity shall also pay or provide for the payment of one-half of

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

street development costs, and shall either provide, or pay or make provision for the payment of the costs associated with making improvements for water, sewer, and utilities stubbed to the site, and overlot grading of the dedicated land. The applicant shall also have furnished any off-site easements which the School District needs to develop the site.

5. The lands being dedicated or conveyed to the School District shall be located and configured as directed by the School District.
6. The person or entity conveying the land to the School District shall satisfy the Town's water rights dedication requirements, as may be amended, prior to conveying the property to the School District.
7. In addition to conveyed or dedicated lands, the School District shall be given the right to purchase adjacent lands owned by the developer at its fair market value so that the dedicated or conveyed and purchased lands together form a contiguous parcel which meets the School District's land area requirements.

(d) **Exemptions.** The following uses shall be exempted from Fair Contribution for Public School Sites:

1. Construction of any nonresidential building or structure;
2. Alteration, replacement or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units;
3. Construction of any building or structure for limited term stay or for long term assisted living, including, but not limited to, bed and breakfast establishments, boarding or rooming houses, family-care homes, group-care homes, halfway houses, nursing homes, or hospices, except where such building or structure will be used primarily to house school aged children;
4. Construction of any residential building or structure classified as housing for older persons, pursuant to the Federal Fair Housing Act in effect;
5. The construction of accessory buildings or structures; and

CHAPTER 17 - Subdivisions

ARTICLE I Subdivision Code

6. Construction of any low-income housing unit, on lots designated as such by the Town. (Ord. 3-2012)

17-75 (Reserved)

B:\BV\Sub-Ord.02 Revision completed 4-21-98.

Ord. 8, Series of 1999, Revision completed 12-15-99.

Ordinance 3 series 2002. Revision completed 4-12-02

Ordinance 2, series 2003, Revision completed 4-05

Ordinance 15, series 2003, Revision completed 4-05

Ordinance 9, Series 2004, Revision completed 4-05

Ordinance 1, Series 2005, Revision completed 1-06

Ordinance 4, Series 2005, Revision completed 1-06

Ordinance 5, Series 2005, Revision completed 1-06

Ordinance 6, Series 2005, Revision completed 1-06

Ordinance 3, Series 2012